

The Solicitors' Journal

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THE SOLICITORS' JOURNAL



VOLUME 105
NUMBER 50

CURRENT TOPICS

Spouses at Law

THE Law Reform (Husband and Wife) Bill, presented by Mr. PETER RAWLINSON, Q.C., gives effect to the recommendations in the Ninth Report of the Law Reform Committee (Cmd. 1268) about liability in tort between husband and wife. Clause 1 reverses the rule of the English common law by which spouses are precluded from suing each other in tort. The new general right of action conferred by the clause supersedes the limited right of a wife to sue her husband in tort for the protection of her property under s. 12 of the Married Women's Property Act, 1882, and is subject to two qualifications. In the first place disputes as to the title to or possession of property are to be dealt with in a discretionary way under s. 17 of the Act of 1882. Secondly, the court is given a discretion (the exercise of which is to be considered at an early stage) to stay any action in tort brought during the subsistence of the marriage if it appears that no substantial benefit would accrue to either party from the continuation of the proceedings. The Bill is not to apply to any cause of action arising before it becomes law (cl. 3).

Conveyancers' Quiz

In the July-August issue this year of our learned contemporary, the *Conveyancer and Property Lawyer* (at p. 336), an article entitled "The Practitioners' Inquisition" directed a number of detailed and penetrating criticisms at the standard form of preliminary enquiries published by The Solicitors' Law Stationery Society, Ltd. (Con. 29). Since this form has undeniably established a firm place in everyday conveyancing, any shortcomings it may have are of particular concern to practitioners. Therefore let us here hasten to say that the criticisms were aimed not at errors in Con. 29 but largely at the consequences of its attempt at legal precision and comprehensiveness. These consequences were said to be the inclusion of a number of questions either couched in language of technical verbosity or else unnecessary in the majority of cases, thus together achieving only incomprehension to (at least) the vendor and irritation to his solicitor. True, Con. 29 has a note that inappropriate enquiries should be struck out, but unfortunately it is also true that this note is rarely heeded. Instead it has to be recognised that a solemn farce tends to be played with familiar catch phrases—"Please search," "Inspection will reveal," "Not so far as the vendor is aware," and so on *ad nauseam*. That such unhelpful replies are possible may be almost sufficient criticism in itself of the questions. However, an end to this pointless pastime was proposed in the article referred to by

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in effect simply asking fewer, but more directly worded, questions. The hint was quickly taken, The Solicitors' Law Stationery Society, Ltd., having now published a new short form of enquiries before contract, together with a Guide thereto. We feel sure that the practice of preliminary enquiries will enjoy a much-needed revivification by the adoption of this form. The comparative simplicity of the questions it asks should both facilitate and encourage the extraction of information from a vendor and hence the provision of *helpful replies*! In addition to simplicity of language, the new form's major change of approach is to put the onus on the purchaser's solicitor not, as before, to strike out esoteric questions when irrelevant, but to add them when relevant. Accordingly the circumstances of each transaction will have to be carefully considered when deciding whether to ask the further enquiries for which space is left, but this we feel can do no worse than raise conveyancers' standards. However, as indicated by the new Guide, the old Con. 29 remains appropriate whenever, e.g., the complications of either tenancy or planning legislation happen to be relevant. Otherwise on the sale of common or garden, bread and butter, ordinary urban property, the new Con. 29 (short form), with Guide, should restore a sense of purpose to the making and answering of preliminary enquiries.

Higher Court Fees

THE Supreme Court Fees Order, 1961 (S.I. 1961 No. 2307), in operation on 1st January, 1962, revokes the Supreme Court Fees Order, 1930, as subsequently amended and substitutes new fees for proceedings in the Supreme Court. The order raises the general level of fees so that the amounts are, in most cases, approximately double the corresponding amounts fixed by the 1930 Order. It amends some fees so as to accord with modern practice and procedure; it merges others and it omits a number of obsolete items, thereby reducing their total number. The fee on a writ of summons (Fee No. 1) is raised from £3 to £4 where the claim does not exceed £100, and in other cases from £4 to £5. The fee on filing a divorce petition (No. 49) is raised from £3 to £5. Fees (Nos. 18, 19 and 21) payable on setting down for trial or hearing in the High Court are raised from £2 to £6, save in the case of setting down for judgment (No. 16), or as a short cause (No. 17), or in the undefended divorce list (No. 20), where the fee is raised to £5. The fees on judgments and orders are abolished, including additional fees payable on hearings which occupy more than one day.

Decimal Coinage

At a time when the Government's views as to the adoption of a system of decimal coinage are eagerly awaited, it is interesting to note some observations made recently by Dr. E. H. D. ARNDT, Chairman of the Decimalisation Board established in South Africa to organise the change-over from £ s. d. to a Rand/cent system of currency. It seems that the South African transition will be completed roughly a year earlier than the Decimal Coinage Commission envisaged and this fact leads Dr. Arndt to conclude "that distant mountains often dwindle to molehills when actually approached." Numerous overseas observers have confirmed Dr. Arndt's view "that the switch-over went off smoothly and without a hitch" and he attributes this, in the first instance, "to the happy choice of 10s. as the new unit,"

which resulted in such an easy association of values between the old and new systems "that even illiterate Bantu had little difficulty in grasping the new set-up." The choice of 10s. as the new unit enabled the continued circulation, at unchanged values, of all £ s. d. bank notes and silver coins, and only called for the immediate availability of new ten-to-the-shilling bronze coins to replace the former twelve-to-the-shilling coins. Even this restricted call on the Mint proved to be "quite strenuous" and Dr. Arndt thinks that "any decision to introduce more than merely new bronze coins would have required a much longer preparatory period for coinage purposes, while their distribution throughout the country would have become more involved (and costly)." According to Dr. Arndt, the Decimalisation Board's first annual report should "serve as an encouragement to the other £ s. d. countries, which are considering making the 'plunge,' provided, however, that they make the same happy choice of a new unit as we did." No doubt Dr. Arndt's views will be taken into account by those who are now wrestling with the problem of the adoption of a decimal system in the United Kingdom and they may note particularly his belief that "a definite decision to introduce a decimal coinage system cannot possibly be made known too early," even if no date for the transition can be mentioned with any degree of certainty at the same time.

Unfettered Discretion

WHEN it is said that something is to be done within the discretion of the authorities, "discretion" means that "the something is to be done within the rules of reason and justice, and not according to private opinion; according to law and not humour. It is to be not arbitrary, vague and fanciful, but legal and regular" (per Lord Halsbury, L.C., in *Sharp v. Wakefield* [1891] A.C. 173). Under s. 4 of the Licensing Act, 1953, licensing justices may grant a licence to any person "as they think fit and proper." The Licensing Act, 1961, has left this clause intact and in *R. v. Licensing Justices for the County Borough of Great Yarmouth; ex parte Hamilton* (1961), *The Guardian*, 9th December, the Divisional Court confirmed that it confers upon licensing justices an unfettered discretion, subject to the sole restriction that it be exercised judicially. In that case the appellant failed to show that the justices, when refusing to grant his application for a licence to sell intoxicating liquors for consumption on the premises, had reached their decision dishonestly or by wholly extraneous means, and it followed that the Divisional Court had no ground on which to interfere by the issue of an order of mandamus.

Mr. J. D. Pennington

WE record with deep regret the death of JOHN DRURY PENNINGTON on 8th December at the early age of 51. Although his appointment as Case Editor of this Journal was announced as recently as April this year, he had been Assistant Editor of the *Weekly Law Reports* since their foundation in 1953 and in that capacity had contributed very greatly to the establishment and smooth operation of the Journal's "Notes of Cases" as we know them today. His enthusiasm for improvement in the methods of law reporting was largely responsible for the very speedy reporting system adopted in the Journal this year; but it is as a warm-hearted colleague with the gift of simple friendship that we shall best remember him.

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LEGAL EXECUTIVES

SLOWLY news is seeping through about the intended transformation of the Solicitors' Managing Clerks' Association into the Institute of Legal Executives, a change which The Law Society and the Association hope will enhance status and stimulate recruitment. The objects are to confer professional status on managing clerks and to offer a career in the unadmitted branch of the legal profession to young men and women as soon as or shortly after they leave school. The Council of The Law Society have made no announcement as yet, but the president of The Law Society at two recent regional conferences in Morecambe and London has told us quite a lot and the president of the Solicitors' Managing Clerks' Association provided corroboration when he addressed the Leicester branch of the Association in November.

Most solicitors are in difficulties because of the shortage of male unadmitted staff. Before the war a substantial proportion of the work of most firms was carried on the shoulders of unadmitted clerks who, as they were never slow to tell us, frequently knew a great deal more about the law and practice affecting their own departments than we did ourselves. These valuable men (and most of them are men, although we know some excellent ladies) still exist, but most of them are in middle age or further. Since the war we have not succeeded in recruiting more than a trickle of young men who can take over from their elders or, even more important, take off the shoulders of admitted solicitors some of the burden which we are carrying.

There are various reasons for this situation. Industry and large organisations such as banks and insurance companies attract men in a way in which comparatively small firms of solicitors cannot, although the degree to which banks now depend on women shocks the older generation. The boys from whom our unadmitted clerks used to be recruited were frequently those whose parents could not afford to keep them at school beyond the age of fourteen or fifteen, in spite of the fact that their intellectual capacity clearly fitted them for an extended career at school and possibly at a university. Such boys now stay at school; many of them go to universities and some become solicitors, but more fall for the attractions of industry. Even so, there must be quite a large number (and we believe the proportion will increase) of boys who have two passes at "A" level but who fail to get places at universities; we hope that many will become articled and in due course replenish the ranks of admitted solicitors. Some will fail to attain the necessary two passes at "A" level which The Law Society have recently prescribed as the minimum academic standard which is required for entering into articles, and the question is whether our profession can attract a substantial number of these into the unadmitted ranks. Some boys in this category come from the grammar schools and some from the secondary modern schools.

Choosing a career

When planning how to attract these boys into the law, we have to consider several factors. One of the most important, whether it is a good thing or not, is status. Napoleon once remarked that every private had a field marshal's baton in his knapsack. We think that it would be quite wrong to tell a boy coming into our offices under present conditions without any passes at "A" level that he had more than an outside chance of becoming a solicitor. When a boy goes into a bank or insurance company, the ladder of promotion stands ready, but we require a solicitor to pass examinations for which a

certain minimum intellectual capacity is necessary and which become increasingly difficult to pass after the age of thirty. We certainly do not suggest discouraging the ten-year man, but he was a product of an unfair educational system. The vast majority of those who would have been ten-year men are now staying at school until they are eighteen, and quite possibly going to the university as well. It follows that we ought to offer to men and women who are not articled some kind of secondary professional status.

Another factor is money. Solicitors have an unfortunate tendency to start talking about costs and overheads, and the gap between the two seems to grow narrower every year. This means that the salaries which we can offer to unadmitted men do not always compare favourably with those which they can obtain in industry, banks, insurance companies and other organisations. This situation may well deteriorate; the fewer unadmitted men we have at our disposal, the more time solicitors will spend on doing routine work, and thus our earnings will be further diminished. We must try to devise some way in which we can offer salaries which are equal to those which can be earned in other comparable jobs. Closely allied with money is security, and here again the large organisation has an overwhelming advantage. The individual solicitor or firm cannot afford to sink very much money into training and education. A bank can engage a large number of young men and women and expect to see no return from them while they are being trained. Similarly industry is willing not only to pay graduates £700 per annum while they are learning their jobs, but also to pay trainees straight from school adequate salaries. Some firms of solicitors are not providing adequate pensions for their staff, and in spite of the graduated pension scheme which the Government recently brought into operation, most unadmitted men have to consider their pension prospects very carefully.

On such things as sick pay and holidays we do fairly well. A man who is described as being "on the staff" in a factory often has only a limited amount of sick pay, but it is the custom in most solicitors' offices to nurse their staff financially through times of sickness and other difficulties. Equally it is the custom to pay members of their staff when they retire a pension, but there is sometimes no guarantee or obligation.

Another factor is the interest of the work. There are some men who would gladly exchange a dull repetitive job in a factory for work in a solicitor's office or work of a similar kind, even though it might involve loss of pay. We believe that the efforts of The Law Society to give the public a more cheerful image of life in a solicitor's office are producing results. The dry-as-dust outlook is disappearing, but many firms have a long way to go. Similarly, the conditions in which men and women have to work in a large number of solicitors' offices are not attractive. Again The Law Society are doing their best to encourage us all to provide cheerful, well furnished, well heated and comfortable offices with up-to-date equipment, and to tear down from our walls the advertisements of auction sales seven years old. From what we have seen in some offices, The Law Society's efforts have not yet been entirely successful. Another factor which is becoming increasingly important because of rising fares is travelling distance, and for this reason we should have regard to the local supply of possible recruits.

Organised education

Possibly the most important factor, which is closely allied to status, is education. A boy who goes into a bank or

insurance company or into skilled work in a factory can obtain qualifications by means of examinations, and frequently he is allowed one day each week away from the office or factory in order to go to day release classes. No such general system exists for unadmitted men in our profession, and this is a very grave weakness. The Solicitors' Managing Clerks' Association was founded in 1892 and since then has done an enormous amount of work in providing education for unadmitted men. In 1949, in co-operation with The Law Society, the Association introduced a scheme of examinations for their members, but unhappily it was not as well supported as it should have been, and has not made the expected appeal to members of The Law Society. More recently, the Association have organised classes for junior clerks which have been well supported. The Association would be the first to agree that this is not enough, because the system of education tends to be concentrated in the large towns; outside those large towns solicitors cannot direct intending employees to anything which can be described as a systematic programme of instruction.

The new Institute of Legal Executives will put education in the front of its programme. There will be three classes of members—fellows, associate members and student members. Every solicitor's clerk will be eligible for student membership and progress to associate member or fellow will depend on passing various examinations and completing certain minimum periods of service in a solicitor's office. Thus, a student should qualify to become an associate member after three years' consecutive service, provided that he has gone through a course of instruction in elementary law and practice based on a prescribed text book, and has passed an examination in those subjects together with English language, unless he has some exemption from the last. A further five years' service will be necessary, coupled with a further course of instruction and examination, in order to become a fellow. He will then be entitled to be called "Legal Executive" and to use the letters "F.I.L.Ex." after his name.

The Law Society are preparing a brochure giving information about a career in the law which they intend to circulate to schools and youth employment agencies.

These are steps in the right direction, but unfortunately so far it is little but a paper scheme. The elementary text book remains to be written or adopted, and it is likely that some other text books will have to be either written or re-written. We have recently made a survey of the courses offered by local education authorities and by correspondence colleges, and we find that there is hardly anything which can be described as suitable for a boy who comes straight from school into a solicitor's office. Some local education authorities have organised classes in co-operation with the Solicitors' Managing Clerks' Association. Although the total number is small, they are mainly concentrated in thickly populated

areas so that the situation is not as bad as appears from merely counting heads. Even so, there are wide areas of the country from which classes are not reasonably accessible in the evenings. A much larger number of local education authorities have told us that, although they offer no classes at present, they would be pleased to provide them if there were sufficient demand.

Several correspondence colleges provide courses which are geared to the Association's examination, but none that we have seen provides anything which is suitable for the boy straight from school.

The upshot is that at present a boy of sixteen or seventeen coming into our offices is left without any formal or disciplined instruction. He is expected to pick up his job as he goes along, and he tends to lose the habits of systematic study which (we hope) he was accustomed to at school. There is thus a vicious circle; most people cannot study seriously for examinations until suitable tuition, either oral or by correspondence, is available; neither the local education authorities nor the correspondence colleges can be expected to provide adequate tuition until the number of candidates appears likely to make the venture worthwhile. Publishers are not going to produce text books unless there is some prospect of selling them, and at the present rate of recruitment of male junior staff the market does not appear to be large.

Someone must break this circle, and in our view the responsibility rests equally upon The Law Society and upon the local law societies. We understand that The Law Society are proposing to contribute £2,000 to launch the Institute of Legal Executives. We do not think that this is enough. The first step which we suggest is that The Law Society and the Association (future Institute) should subsidise correspondence courses for new entrants. Secondly, as soon as the syllabus for the elementary examination is known, local law societies should get in touch with their education authorities, and offer their help in providing lecturers and tutors. Whether or not it would be necessary to have any kind of financial guarantee we do not know, but if so it should be given from central funds. Thirdly, local law societies should reinforce the recruitment campaign which the Council are proposing to organise by offering to supply speakers for school leavers.

The recruitment of legal executives is a matter for the whole profession; most of the cost ought to be borne centrally, but only solicitors on the spot can effectively make the necessary contacts at the schools.

We hope that The Law Society will make the necessary official announcement and that the Society and the Institute will put their plans into operation with vigour and money and without delay.

Personal Notes

Mr. ALBERT LACY CHAPMAN, solicitor, of Ledbury, is to retire at the end of the year, aged 81; since 1919, he has been managing clerk and assistant solicitor to Messrs. R. E. C. B. Masefield, of Ledbury.

Mr. W. J. WALLIS HILL, official receiver for London South Suburban District since 1958, retired on 30th November after forty-two years' service to the courts. Judge Arthur Cohen and the registrar, Mr. H. Lloyd Williams, paid tribute to him in Croydon county court.

Mr. CLIVE OLIVER, solicitor, of Nantwich, has become secretary of Chester regatta committee.

Honours and Appointments

Mr. W. A. BLAIR-KERR and Mr. R. H. MILLS-OWENS, district judges, Hong Kong, have been appointed puisne judges in that territory.

Mr. DAVID GEOFFREY EDWARDS, solicitor and deputy town clerk of Colwyn Bay, has been appointed town clerk as from June, 1962.

Mr. WILLIAM WESLEY ELLISON, solicitor, of Barrow-in-Furness, has been appointed deputy coroner for Furness in succession to Mr. John Heron, who died recently.

Mr. WILLIAM HENRY HUGHES has been appointed deputy chairman of the court of quarter sessions for the county of Essex.

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LIABILITY FOR MISSTATEMENTS

AS AFFECTING BANKERS, SOLICITORS AND OTHERS

IN 1951, Denning, L.J., made a plea for "bold spirits" prepared to allow a new remedy for harm caused by misstatements (see *Candler v. Crane, Christmas & Co.* [1951] 2 K.B. 164, at p. 178). How far have decisions since that time responded to his plea? The answer would appear to be hardly at all; indeed, recently a unanimous Court of Appeal in *Hedley Byrne & Co., Ltd. v. Heller and Partners, Ltd.* [1961] 3 W.L.R. 1225; p. 910, *ante*, has affirmed its previous decision in *Candler's* case that no duty of care is owed in tort by the negligent, but not fraudulent, maker of an incorrect statement to a person who acts on that statement to his pecuniary damage, however much the plaintiff may be the legal neighbour of the defendant (see also Mr. Anthony Scrivener's valuable article, "More Timorous Souls," p. 270, *ante*).

It will be remembered that in *Candler's* case the plaintiff lost some £2,000 invested by him in a Cornish tin mine by relying on some accounts of the mine's finances negligently but not fraudulently prepared by the defendant accountants' clerk. The Court of Appeal held him unable to recover his money as damages in tort from the defendants since, although they must have known that he would rely on the accounts, he was not their client (the mine proprietor was) and no duty of care was owed where there was no contractual promise of carefulness. The only duty in tort is to be honest, and *Derry v. Peek* (1889), 14 App. Cas. 337 (H.L.), had already decided that a negligent man is not *ipso facto* a dishonest man.

The banker's reference

As the Court of Appeal regards itself as bound by its previous decisions, *Candler's* case was obviously a formidable hurdle in the path of success for the plaintiffs in *Hedley Byrne's* case. The plaintiffs were advertising agents who were about to commit themselves financially for the considerable cost of some advertisements on behalf of a limited company, and, before they did so, they asked their bank to inquire of the limited company's bankers (the defendants) as to the financial stability of the company. The defendants gave a favourable reference about the company, and it was assumed for the sake of argument (though not admitted by the defendants) that the reference was negligently given. No fraud was alleged. Shortly afterwards the company went into liquidation, and the plaintiffs were unable to recover from it a large part of the cost of the advertisements to which they had now personally committed themselves in reliance on the bankers' reference. Consequently they sued the defendant bankers to recover by way of damages the unrecovered cost. There was no contractual relationship between plaintiffs and defendants, since the reference was given gratuitously, and the plaintiffs' only hope, therefore, of surmounting the hurdle of *Candler's* case was to allege that the circumstances showed "a special duty to exercise care in giving information or advice," the possibility of which was recognised by Viscount Haldane, L.C., in *Nocton v. Ashburton* [1914] A.C. 932, at p. 947. One instance of such a special duty is where the maker of the statement owes an equitable fiduciary duty to the person relying on the statement (*Nocton v. Ashburton*), but Viscount Haldane recognised that there might be other instances.

Special relationship between plaintiffs and defendants?

In support of this allegation the plaintiffs pointed out that there was a special relationship between the defendants and the limited company, in that the company was alleged to be dependent for its survival on financial facilities provided by the defendants. However, even assuming this to be true, said the Court of Appeal, that did not constitute a special relationship between the plaintiffs and the defendants, and the only duty of care that could be alleged was a general duty in tort, of which *Candler's* case had already denied the existence. Consequently the plaintiffs' action failed.

Clayton's case

A "bold spirit" was, however, to be found in the recent case of *Clayton v. Woodman & Son (Builders), Ltd.* [1961] 3 W.L.R. 987; p. 889, *ante*, in the judicial person of Salmon, J., who imposed liability for a negligent misstatement by an architect to a bricklayer about building work causing *personal injury* to the bricklayer. In his judgment the learned judge said that the architect gave an order which he knew would be obeyed, with almost a certainty of consequent personal injury. An order differs from a mere statement which may or may not be acted upon. This distinction may be of general application, even to pecuniary cases.

What is the position of a solicitor?

What liability (if any) is imposed upon solicitors for their misstatements? If a solicitor represents incorrectly that a third party is good for financial credit, can he be sued in tort by a stranger, not a client, who relies on the representation? It would appear not, if the solicitor's only fault is that he is negligent (*Hedley Byrne's* case), unless he owes a fiduciary duty to the stranger. If, on the other hand, the solicitor knows that the reference is incorrect, then, no matter how disinterested his motives, he can be sued in damages for the tort of deceit unless he can plead Lord Tenterden's Act of 1828, which requires the representation to be in writing signed by the defendant *personally* (not by an agent, even the solicitor's partner).

What is the position of a solicitor who gives legal advice without payment of a fee? If the advice is given casually, albeit on a matter which the solicitor has handled in his office, then it appears that the solicitor is under no liability in tort (*Fish v. Kelly* (1864), 17 C.B. (N.S.) 194), at least if his advice is factual rather than purely legal (*ibid.*). It is, however, possible for the relationship of solicitor and client to arise even though the solicitor makes no charge: *Donaldson v. Haldane* (1840), 7 Cl. & F. 762. In *Bulkley v. Wilford* (1834), 2 Cl. & F. 102, it was suggested (obiter) that a solicitor might be liable to an intended legatee whose legacy fails because of negligent advice given to the testator in his lifetime by the solicitor, despite these very unflattering arguments:—

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However, in the Scottish case of *Robertson v. Fleming* (1861), 4 Macq. 167, it was suggested obiter that a solicitor would owe no duty of care in tort to the legatee.

Solicitors' undertakings

If a solicitor gives an undertaking, whether to a client or to a stranger, it will be enforced against him even though it has no contractual force (e.g., because it amounts to an oral guarantee requiring signed written evidence under the Statute of Frauds, 1677) by the court in the exercise of its summary jurisdiction over solicitors as officers of the court. Further, if the solicitor wishes to exclude his own personal liability on the undertaking, he must do so by clear and unambiguous

words; it will not suffice merely to state that he gives the undertaking "on behalf of" his client. Even if the solicitor does clearly exclude his personal liability, the Council of The Law Society will regard it as the solicitor's professional duty to do his utmost to persuade his own client to implement the undertaking (see pp. 73-7 of The Law Society's Guide to the Professional Conduct and Etiquette of Solicitors (1960), by Sir Thomas Lund, C.B.E.).

M. J. G.

ESTOPPEL OF STATUTORY CORPORATIONS

It is rarely possible for ordinary citizens dealing with statutory bodies to be sure of the extent of the authority vested in the employees whom they encounter and with whom they have to negotiate. Can X's statement be acted on? Is Y's order binding? An answer needs to be provided to questions of this kind if the public authority is not to assume the Kafka-like facelessness it possesses in countries where the rule of law does not apply. Unfortunately the *ultra vires* rule and in the past the general requirement that the contracts of a statutory corporation had to be under seal have caused much difficulty, and in the field of contract these rules have, it is feared, on occasions been used to avoid just obligations.

The strictness of the general common-law rule that a statutory corporation could only contract under seal has now of course been much relaxed by the Corporate Bodies' Contracts Act, 1960, passed largely as a result of *Wright and Son, Ltd. v. Romford Corporation* [1956] 3 W.L.R. 896, which, although it laid down no new law, focussed attention on the problem and led to a recommendation in the Eighth Report of the Law Reform Committee. The Act in effect puts all corporate bodies into a similar position to companies incorporated under the Companies Act, 1948, by providing that a person authorised by the body (expressly or impliedly) may make a contract on its behalf which will be fully binding provided that it is made in writing where a contract between private persons would have been required to be in writing. The result is that local authorities and other statutory bodies may now be bound by their senior officers in many types of transaction where a formal or implied authority has been given. In day-to-day dealings it will be safe to assume that an officer who has regularly given orders and placed contracts has at any rate an implied authority.

Employees' binding of a statutory body

Two recent cases have shed interesting light on the question of the extent to which a statutory body may be bound by the acts or statements of its employees acting without express authority.

In *Southend-on-Sea Corporation v. Hodgson (Wickford), Ltd.* [1961] 2 W.L.R. 806; p. 181, *ante*, the Court of Appeal considered whether a local authority could be estopped from exercising a statutory discretion by a statement made by a senior officer and acted on. The facts of the case were briefly that a company wishing to establish a builders' yard wrote to the borough engineer of the local planning authority inquiring about certain land which they stated had been used as a builders' yard for a considerable period and asking whether it could still be used for this purpose. The borough engineer replied that the land had existing use rights under the Town and Country Planning Act, 1947, as a builders'

yard and that no planning permission was necessary. In reliance on this letter the firm purchased the land and used it as a builders' yard. It was later found that the land had no existing use right as a builders' yard, and the local authority took enforcement action against the firm. On an appeal to the magistrates against the enforcement notices it was held that the authority was estopped by the borough engineer's letter from arguing that planning permission was required, and the local authority appealed against this decision.

The Court of Appeal considered the earlier case *Maritime Electric Co., Ltd. v. General Dairies, Ltd.* [1937] A.C. 610, in which it was held that estoppel could not be set up to prevent the carrying out of a duty of a positive kind imposed by statute, since "an estoppel is only a rule of evidence which under certain special circumstances can be invoked by a party to an action; it cannot therefore avail in such a case to release the plaintiff from an obligation to obey such a statute, nor can it enable the defendant to escape from a statutory obligation of such a kind on his part. It is immaterial whether the obligation is onerous or otherwise to the party suing. The duty of each party is to obey the law" (per Lord Maugham, at p. 620).

In the *Southend-on-Sea* case the Court of Appeal said that there was no logical distinction so far as estoppel was concerned between the performance of a statutory duty and the exercise of a statutory discretion, such as that under the Town and Country Planning Act, 1947. It was pointed out that there is ample authority laying down that a public authority cannot by contract fetter the exercise of its discretion (meaning, presumably, its statutory discretion). "Similarly, as it seems to me," said Lord Parker, C.J., "an estoppel cannot be raised to prevent or hinder the exercise of the discretion." Further, the authority could not be estopped from giving evidence as to the true facts in regard to the existing use of the land, since such estoppel would result in preventing the authority from exercising its discretion.

Whilst there can be no doubt as to the correctness of the decision in this case, it would seem most unfortunate that in circumstances such as this a written statement of a senior official cannot be relied on, and can be set aside by the authority even after it has been acted on in all good faith.

Position in contract

In matters of contract, however, the ordinary rules as to estoppel apply to a local authority or other statutory corporation, and it would seem that the authority can be estopped as a result of actions or statements by employees with implied authority only. This is the apparent effect of the recent Divisional Court decision, *A. Roberts & Co. v. Leicestershire County Council* [1961] 2 W.L.R. 1000; p. 425, *ante*. The plaintiff company had submitted a tender for the erection

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of a school specifying a certain period for completion, but in the formal contract, sealed by both the company and the county council, a different period was inserted, the result of which was to benefit the council. No officer of the council called the company's attention to the fact that the period for completion had been altered in the formal documents sent for sealing, and the directors and officers of the company believed at all times that the original period had been adhered to. Between the sealing on behalf of the company and the sealing on behalf of the county council two meetings took place between officers of the council and the company, but the local authority officers did not at either meeting draw the other side's attention to the new period for completion, although, the court found, at least one of the council officers was aware during the second meeting that the company believed that the original period still applied. The company applied for rectification of the sealed contract by the alteration of the period for completion. On these facts Pennycuik, J., held that when the local authority executed the contract it knew that the company was mistaken as to the date for completion, since the officer concerned knew that the company's officers believed the original period applied; and that, since the council stood by and took no steps to draw the attention of the company to the mistake, the plaintiffs were entitled to the rectification applied for.

Form of estoppel

The court did not state at length the principles underlying the decision, but clearly the basis is a form of estoppel. His lordship referred to the following paragraph in Snell's Principles of Equity, 25th ed., p. 569: "By what appears to be a species of equitable estoppel, if one party to a transaction knows that the instrument contains a mistake in his favour but does nothing to correct it, he (and those claiming under him) will be precluded from resisting rectification on the ground that the mistake is unilateral and not common."

On a close study of the facts of this case, several interesting points emerge. First, the officer who attended the meetings with the plaintiffs' representatives, and whose knowledge of the misapprehension gave rise to the estoppel, was not a chief officer of the local authority and was certainly not in any way expressly authorised in relation to the particular contract or contracts in general. (It should be noted also that the facts took place several years before the passing of the Corporate Bodies' Contracts Act, 1960, *supra*.) Although the contract was under seal, and quite unambiguous, the officer in question was, it would seem, in a position to affect the contractual position by estoppel, and his knowledge was taken by the court to be knowledge of the local authority. A second point of considerable interest is that the meetings at which it became clear that the company's representatives were under a misapprehension as to the period for completion took place after the company had sealed the contract, but before sealing on behalf of the council. An estoppel of this kind can, therefore, arise at any stage before the contract becomes binding and final.

These decisions show that in the application of the principles of estoppel to statutory bodies there is a wide difference between facts involving the exercise of statutory duties or discretions, and contractual matters. In the case of a statutory duty or discretion there can be no estoppel by statements or actions of officers of the local authority or other body, or presumably by actions of the body itself, since the requirements of statutes must be carried out. Where contractual matters are concerned, on the other hand, a statutory body is in no different position from any other form of corporation and, even apart from the Corporate Bodies' Contracts Act, 1960, estoppel could arise on the acts or statements of an officer. This must be qualified, however, by adding that the officer must at least be acting within the scope of his apparent authority.

G. A. H.

THE RURAL WATER SUPPLIES AND SEWERAGE ACT, 1961

THIS short Act, which received the Royal Assent on 22nd June, 1961, brings up to four the group of Acts of the same name. It is intended to meet what are literally borderline cases, those cases where a scheme of rural water supply or sewerage will extend over parts of two counties.

These Acts have pumped more life into rural district administration than any other group of measures. They spread the cost of a contract entered into by a rural district council over the Treasury, the county council and the rural district council. For many years the formula applied by the Ministry of Health and its successors led to a splitting into approximate thirds but the Minister, who did not announce the details of any formula until a few months ago, has developed his methods over seventeen years to take account of the pre-existing rate burden of the rural district council who were initiating the scheme. Thus an enterprising rural district council, who set out to give the whole of their district main sewerage by starting one contract after another, had the agreeable surprise of finding the Treasury contribution increasing.

It did however require a degree of nerve on the part of rural district councillors to prepare schemes without knowing, until the work had been completed, what the Treasury and county council contributions were going to be. The Minister

has always supplied forecasts when the design work was available for submission to him, but these were invariably hedged around with many provisos reserving the right to increase or decrease his contribution.

The Minister's calculations became even more complex when trunk sewers began to be available in certain parts of the country. In these cases, the local contract was solely for sewerage. No longer was it necessary to build a sewage disposal works, but in place of this the sewers would be connected to somebody else's trunk sewer and a perpetual annual payment would be made. The Minister continued to make grants and, by calculations understood only by himself, transformed part of the perpetual annual charge into a notional capital expense. In at least one case known to me personally, the combined Treasury and county council grants came to more than the cost of the contract but the local council were left with an annual payment to make for ever.

The scope of the Acts is not limited to work done by rural district councils, although in practice it has been rare for an urban authority to be assisted. The Acts are directed to the improvement of water supplies "in a rural locality" and for improvements in sewerage necessitated by a previous improvement in water supply. Such localities can be within the boundaries of an urban district council or even a city.

Complaints

In two respects, the grant-aided authorities found reason to complain. (They were sure to.) The first time was when the Minister abandoned the practice of giving his assistance in the form of a lump sum grant and substituted half-yearly payments in support of the cost of raising the loan. Calculations of such payments had to take into account the rate of interest that was going to be paid and, as interest rates began to climb, some authorities found that their grants had been calculated on the interest rates prevailing when they submitted their scheme to the Minister and not upon the interest rates prevailing when, after the job was done, they raised a loan to pay for it. The authorities, having failed to move the Minister by many arguments, are clinging ever more precariously to the hope that one day interest rates may start to fall and that they will reap roundabouts where they have sown swings.

The second complaint was in retrospect less justifiable but nevertheless was a nasty shock at the time. When the Minister initiated a vast reform in the making of grants in support of particular forms of expenditure and substituted block grants, some authorities took the trouble to inquire whether grants under the Rural Water Supplies and Sewerage Acts were going to be among those that would be swept away. They were assured that they would not be. The more trusting local authorities conceived the possibility of a rosy future. The block grant system was to meet approximately 40 per cent. of all their rate-borne expenditure. They assumed that if the Minister and the county council continued to pay two-thirds of the cost of a contract between them and the block grant paid 40 per cent. of what was left, they would have next to nothing to pay, but they were disillusioned. The Minister secretly revised his formulae again and the direct grants were heavily cut.

"Grant-Aid Government"

In the summer vacation of 1928, I came down to find that Mrs. Sidney Webb was staying with my family. As I was

then being tutored in Public Administration by a Fellow of All Souls, she lectured me, to my great potential advantage, from her unequalled knowledge of local government. She told me that if I followed a career in local government I would see the end of the period in which it was truly local. In its place would come what she called "Grant-Aid Government." I have seen exactly that happen. As the part-time clerk of a rural district council, which just after the war had a penny rate yield of less than £150 and even today still has less than £400, I have watched this council in fifteen years spend nearly two million pounds on capital works. Water mains were extended further and further until only fifteen houses out of 3,000 were without main water. The increasing consumption of water had to be bolstered by new pumps and new water towers. Village after village was given main sewerage. In most cases these were connected to trunks but, where local disposal works were built, they were designed by consulting engineers on modern lines. The council built houses until today one house in three is a council house. Two hundred old cottages have been improved with what are virtually gifts of capital money to their owners.

Even today there are some people with knowledge of local government who speak as though the smaller authorities were still unable to afford proper services. The fact which is exemplified in the Rural Water Supplies and Sewerage Acts is that the size and penny rate of a local authority today has no effect whatever upon its ability to provide first-class services. Such a small part of the money has to be found locally that contracts of any size can be undertaken by any authority.

Mrs. Sidney Webb clearly saw the converse to this. Today the local councillors sweat to plan and promote and manage, but they do what they are allowed to do by Whitehall, as and when Whitehall permits, and must obey every hint from Whitehall as though it was a law.

E. A. W.

LONDON REGIONAL CONFERENCE

BY A SPECIAL CORRESPONDENT

AFTER the president's opening address to The Law Society's London Regional Conference on 27th November, described at p. 1017, *ante*, there was a lecture by Mr. HAROLD BELL, who outlined with admirable fluency and clarity the problems connected with the sale of flats. He said that, according to the chairman of the Building Societies Association, if the price of land around London continued to increase, a man earning less than £1,000 a year would soon be excluded completely from the house-buying market. The solution, therefore, was to build higher, and building societies must be prepared to grant loans for the purchase of flats and maisonettes. The speaker felt that maisonette development would become increasingly popular in towns and also in suburbs, so long as a town or shopping centre was not too far off.

The solicitor acting for the developers could not do his job by sitting at the desk, but must get on to the site and be prepared to advise his clients at every stage on the legal problems that might arise. An example was given of a solicitor for developers who neglected to ensure that the proposed lessees had the right to a supply of water to their flats. The solicitor who acts for the developers must put

himself in the position of those who act for the mortgagees and the purchaser, because without the mortgagees there would be no money and without money there would be no purchaser, and unless everyone was happy the developers' solicitor might lose a client.

Mr. Bell rather startled the audience by telling them that purchasers' solicitors could not hope to amend the documents, which must remain the same in each transaction and must be accepted or rejected. Developers' solicitors would not give way on this point, whatever the arguments raised, even if they were threatened as he had been with being reported to The Law Society.

The speaker thought the sale of freehold flats quite unsound, and believed that in any case advances would not be forthcoming for such transactions. He outlined the various schemes that were in use, preferring the scheme whereby the freehold is sold to a residents' association controlled by the tenants, a rentcharge being created in favour of the developers. The practical points that would arise were then considered in considerable detail. Some of the audience found it difficult to accept the speaker's attitude towards amendments. There

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Complaints

In two respects, the grant-aided authorities found reason to complain. (They were sure to.) The first time was when the Minister abandoned the practice of giving his assistance in the form of a lump sum grant and substituted half-yearly payments in support of the cost of raising the loan. Calculations of such payments had to take into account the rate of interest that was going to be paid and, as interest rates began to climb, some authorities found that their grants had been calculated on the interest rates prevailing when they submitted their scheme to the Minister and not upon the interest rates prevailing when, after the job was done, they raised a loan to pay for it. The authorities, having failed to move the Minister by many arguments, are clinging ever more precariously to the hope that one day interest rates may start to fall and that they will reap roundabouts where they have sown swings.

The second complaint was in retrospect less justifiable but nevertheless was a nasty shock at the time. When the Minister initiated a vast reform in the making of grants in support of particular forms of expenditure and substituted block grants, some authorities took the trouble to inquire whether grants under the Rural Water Supplies and Sewerage Acts were going to be among those that would be swept away. They were assured that they would not be. The more trusting local authorities conceived the possibility of a rosy future. The block grant system was to meet approximately 40 per cent. of all their rate-borne expenditure. They assumed that if the Minister and the county council continued to pay two-thirds of the cost of a contract between them and the block grant paid 40 per cent. of what was left, they would have next to nothing to pay, but they were disillusioned. The Minister secretly revised his formulae again and the direct grants were heavily cut.

"Grant-Aid Government"

In the summer vacation of 1928, I came down to find that Mrs. Sidney Webb was staying with my family. As I was

then being tutored in Public Administration by a Fellow of All Souls, she lectured me, to my great potential advantage, from her unequalled knowledge of local government. She told me that if I followed a career in local government I would see the end of the period in which it was truly local. In its place would come what she called "Grant-Aid Government." I have seen exactly that happen. As the part-time clerk of a rural district council, which just after the war had a penny rate yield of less than £150 and even today still has less than £400, I have watched this council in fifteen years spend nearly two million pounds on capital works. Water mains were extended further and further until only fifteen houses out of 3,000 were without main water. The increasing consumption of water had to be bolstered by new pumps and new water towers. Village after village was given main sewerage. In most cases these were connected to trunks but, where local disposal works were built, they were designed by consulting engineers on modern lines. The council built houses until today one house in three is a council house. Two hundred old cottages have been improved with what are virtually gifts of capital money to their owners.

Even today there are some people with knowledge of local government who speak as though the smaller authorities were still unable to afford proper services. The fact which is exemplified in the Rural Water Supplies and Sewerage Acts is that the size and penny rate of a local authority today has no effect whatever upon its ability to provide first-class services. Such a small part of the money has to be found locally that contracts of any size can be undertaken by any authority.

Mrs. Sidney Webb clearly saw the converse to this. Today the local councillors sweat to plan and promote and manage, but they do what they are allowed to do by Whitehall, as and when Whitehall permits, and must obey every hint from Whitehall as though it was a law.

E. A. W.

LONDON REGIONAL CONFERENCE

BY A SPECIAL CORRESPONDENT

AFTER the president's opening address to The Law Society's London Regional Conference on 27th November, described at p. 1017, *ante*, there was a lecture by Mr. HAROLD BELL, who outlined with admirable fluency and clarity the problems connected with the sale of flats. He said that, according to the chairman of the Building Societies Association, if the price of land around London continued to increase, a man earning less than £1,000 a year would soon be excluded completely from the house-buying market. The solution, therefore, was to build higher, and building societies must be prepared to grant loans for the purchase of flats and maisonettes. The speaker felt that maisonette development would become increasingly popular in towns and also in suburbs, so long as a town or shopping centre was not too far off.

The solicitor acting for the developers could not do his job by sitting at the desk, but must get on to the site and be prepared to advise his clients at every stage on the legal problems that might arise. An example was given of a solicitor for developers who neglected to ensure that the proposed lessees had the right to a supply of water to their flats. The solicitor who acts for the developers must put

himself in the position of those who act for the mortgagees and the purchaser, because without the mortgagees there would be no money and without money there would be no purchaser, and unless everyone was happy the developers' solicitor might lose a client.

Mr. Bell rather startled the audience by telling them that purchasers' solicitors could not hope to amend the documents, which must remain the same in each transaction and must be accepted or rejected. Developers' solicitors would not give way on this point, whatever the arguments raised, even if they were threatened as he had been with being reported to The Law Society.

The speaker thought the sale of freehold flats quite unsound, and believed that in any case advances would not be forthcoming for such transactions. He outlined the various schemes that were in use, preferring the scheme whereby the freehold is sold to a residents' association controlled by the tenants, a rentcharge being created in favour of the developers. The practical points that would arise were then considered in considerable detail. Some of the audience found it difficult to accept the speaker's attitude towards amendments. There

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was general agreement that Mr. Bell had given most valuable information and guidance on a subject of great and increasing practical importance.

Common Market problems

The afternoon of the first day was supposed to be devoted to "Legal Problems Arising from the Common Market and E.F.T.A." Mr. M. F. FIGGURES, secretary of the European Free Trade Association, spoke first, but it must be said that he dealt not at all with legal problems, although a questioner tried unsuccessfully to raise them. Mr. Figgures dealt clearly and fluently with the political and economic factors leading to the movement for European integration, but none of this was new to any intelligent newspaper reader.

Professor B. A. WORTLEY, O.B.E., of Manchester University, who spoke next, dealt with many of the complex legal problems that would arise if the United Kingdom signed the Rome Treaty.

Guidance to trustees

The second day was devoted entirely to investment policy. First Mr. GUY NAYLOR gave a lucid commentary on the Trustee Investments Act, 1961. The original Bill, described by The Law Society as "both obscure and largely unworkable," had been considerably improved so that the Act was more workable, but still not free from obscurities.

The Trustee Act, 1925, remained in force, the only difference being that the list of authorised investments in s. 1 of the earlier Act was replaced by the narrower range contained in Pts. I and II of Sched. I to the new Act. Only a trustee who wished to go into the wider-range investments and who had insufficient power in his trust instrument enabling him to do so needed to concern himself with the 1961 Act and the division of the fund into two equal parts.

Practical guidance was given to the trustee who decided to operate the 1961 Act. Mr. Naylor pointed out that under s. 15 the powers of the court were not to be cut down, nor to be affected as to the extent of their exercise by the wider powers of the new Act. Nevertheless, certain recent judicial decisions did not seem to show an appreciation of this clear intention on the part of the Legislature. He hoped that further legislation would not become necessary to provide an escape from a policy of over-caution. Mr. Naylor summarised his feelings on this topic by the very apt quotation from the fourth chapter of St. Paul's Epistle to the Galatians with which he concluded his speech.

The interesting discussion which followed, unfortunately curtailed for want of time, showed the close attention with which the speaker had been followed in dealing with a new Act and a very complex subject.

The Hon. DAVID MONTAGU then spoke about gilt-edged and fixed interest securities and Mr. G. H. ROSS GOOBAY about equities, illustrating his preference for these with a graph which was handed round. Mr. EDWARD DU CANN spoke about unit trusts and investment trusts, and then all four speakers formed themselves into a panel and submitted themselves to questions. All the speakers had in mind the probability of continuing inflation.

Tax planning

The third day began with perhaps the best of all the lectures, that given by Mr. PHILIP LAWTON on tax planning. This is an immense subject, not yet as familiar as it should be to the average practitioner. Mr. Lawton described tax planning as the intelligent use of resources, and dealt with various schemes of tax saving in the light of experience and of certain recent

decisions. The speaker gave some helpful advice, and because of his pleasant delivery this talk was easy to follow, even for those unfamiliar with this subject.

What a solicitor is worth

In the afternoon another very practical subject was discussed, that of the Sched. II bill of costs. Questions were answered by an expert panel consisting of Sir SYDNEY LITTLEWOOD, Mr. CORBYN BARROW, Mr. CECIL BLATCH and Mr. JOHN ELLIOTT. The chairman (as any regular conference-goer would expect) was Sir THOMAS LUND, who put the written questions and with his special brand of whimsical humour kept everyone amused. Two members of the panel estimated the cost of the time of a solicitor or managing clerk (otherwise legal executive) at £2 5s. per hour, while another declared that in the ordinary office if you do not charge two guineas an hour you lose money. Sir Sydney roundly declared in reply to another question that most solicitors charge too little. The panel were not always in agreement, but were united in feeling that solicitors do not know the value of the service that they give to their clients.

Provision of capital

There was then a discussion introduced by Sir CHARLES NORTON on the provision of capital for solicitors' practices. The merits and demerits of the plan of forming a service company as an alternative to incorporation with unlimited liability were debated by Sir Charles, his son Mr. J. E. NORTON, Mr. P. M. CHRISTOPHERSON, formerly a chartered accountant, and others. Sir Charles outlined the service company scheme adopted by his firm. No very clear conclusion emerged from the discussion.

Saving time

Finally, Mr. E. A. WILLIAMS, hon. secretary of the Hertfordshire Law Society and a familiar figure at Law Society conferences, gave some good advice on "Saving Time in the Office," drawing on his own experience. His figure for the cost of keeping one solicitor functioning in his office was £3 per hour. He spoke of mechanisation and the use of forms, and the misuse of the telephone and typists' time. He emphasised the importance of cultivating good relations with staff, and mentioned one unorthodox method of doing so. Mr. Williams is an amusing speaker, and his talk was a fitting climax to what was undoubtedly the best of the three conference days.

It will be seen that the working sessions covered a wide range of serious subjects and that solicitors who abandoned their offices temporarily to learn about them should have found it worthwhile. None of the speakers was dull or difficult to listen to, and some were extremely amusing. Your correspondent felt that the best and most valuable sessions were those dealing with the ordinary solicitor's problems, such as the sale of flats, tax planning, costs, and office management.

The presidents of the sponsoring local societies took the chair in turn at the working sessions, and this it is hoped will have reminded solicitors who have not joined one of these societies that they should do so, and support what the societies have done and are doing for the profession.

GRAY'S INN

The Duke of Gloucester, past Treasurer of Gray's Inn, was present at the Grand Day Dinner in Gray's Inn Hall on 22nd November.

HERE AND THERE

UNIQUE

ONE of the attractions of the English tourist trade is the number of beds in which Queen Elizabeth I slept or is supposed to have slept. A tenacious traveller could also make a colossal collection of buildings up and down the British Isles confidently connected by tradition with King John, from King John's Castle at Limerick to King John's Hunting Lodge at Wraysbury. All the ascriptions may, indeed, be accurate. The Virgin Queen was never regarded as a particularly somnolent sovereign, but in the course of her royal progresses and State visits her repose must have honoured and blessed innumerable bedsteads. As for King John, that highly mobile monarch and swift cavalry leader, it is more than possible that he should have provided himself with a *pied à terre* in any place to which his enormous energy was likely to lead him. A human being may live or sleep all over the place. But there is an event which few of us are privileged to experience more than once or in more than one place. True, by a miraculous interposition or, in modern times, by some masterpiece of medical manipulation, a privileged few may be said to have died and been brought to life again, but, for the ordinary run of mankind, including the rich, the learned and the brave, one death-bed only is our allotted allowance, if some spectacular fate does not rob us even of that. For each of us there is a *terminus ad quem* which can only be one spot.

TWO BEDS

ALL this lends a particular interest to a most unusual action in the Paris courts to determine, after almost a century and a half, which bed it was precisely in which the great Napoleon died. In the military museum at Les Invalides, visitors to Paris have hitherto unquestioningly read the simple inscription proclaiming an austere simple piece of furniture as "*Lit de mort de Napoléon*." Now, however, a Major Raoul Rétif has not only challenged its authenticity but is seeking to enforce its removal by injunction, claiming that as a purchaser of an admission ticket he has a right not to be misinformed. But he has a profounder and more personal interest in the matter, for he too is the possessor of an identical bed which he maintains is the one and only genuine death bed. At his home he has made it the centre-piece of a reproduction of

Napoleon's bedroom at St. Helena, complete with a waxwork effigy. "He is at home here," declares the major simply, "and I feel as if I were his host."

EPIC ARGUMENTS

WELL, the issue is a simple one, even if the evidence is as complex as expert opinion can make it.

"Cowards die many times before their deaths;
The valiant never taste of death but once."

Napoleon was no coward. A recent medical analysis of his physical condition has informed us that he suffered from recurrent malaria, scabies, neuro-dermatitis, pleurisy, pyelitis, occasional fainting fits and Frölich's syndrome, dystrophia adiposo-genitalis, that he was hampered by conjunctivitis at Austerlitz, by dysuria at Borodino and during his invasion of Russia, by some gastric disorder during his Saxon campaign, by cystitis during his advance through France after escaping from Elba and by haemorrhoids at Waterloo. Cancer developed on St. Helena and there is a further suggestion that he may have been poisoned by arsenic. Doctors are indomitable in their diagnoses, and one is left wondering how such an unhealthy little man can have found the energy to conquer all Europe. His list of disorders, not to mention the perils of battle, would entitle him to half-a-dozen death beds but even the Man of Destiny could not transcend the established limit, though, besides the two contending beds in the Paris law suit, there is a third in the Caillou Museum at Waterloo. Counsel for the Invalides eloquently traced the genealogy of the bed there back to Napoleon's mother and his sister Caroline. The plaintiff's counsel traced his client's relic back to the testamentary executors. The matter is further confused by the fact that Napoleon had two identical camp beds at St. Helena. The arguments were marked by a splendidly emotional recapitulation of the glories of the Napoleonic epic, counsel apologising for lingering so long on a theme which was infinitely agreeable. Stunned by eloquence and by the memory of the tropical hurricane which swept over the island at the hour of Napoleon's death, uprooting trees and accompanying his soul out of this world, the court reserved judgment.

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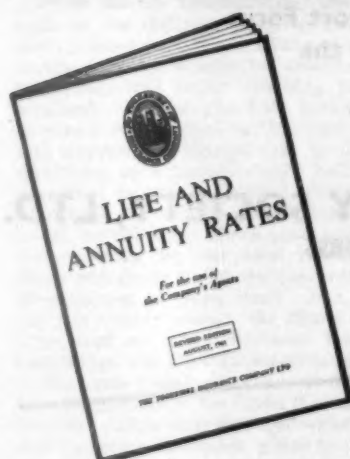
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DOUBLE TAXATION: UNITED KINGDOM AND ARGENTINA

Preliminary discussions about a comprehensive double taxation agreement between Argentina and the United Kingdom were held in London on 27th and 28th November, 1961, between representatives of the Argentine Ministry of Finance and the United Kingdom Board of Inland Revenue.

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REVIEWS

In Search of Criminology. By LEON RADZINOWICZ. pp. vii and (with Index) 254. 1961. London: Heinemann. £1 5s. net.

"The bewildering complexity of the phenomenon of crime," as the author of this book calls it, tends to be glossed over in this country, greater interest being paid to the treatment of the symptoms than to the diagnosis of the disease. This has not been the case in most European countries, where for the past hundred years criminologists have had as much influence as High Court judges—sometimes more—on the development of criminal law and penology. In England the making and interpretation of criminal law have remained the prerogative of the judges, and as a result the study of criminology has until very recently been left to enthusiastic amateurs. In an attempt to assess the progress of teaching and research in criminology in Western Europe and the United States, the Director of the Cambridge Institute of Criminology has travelled far and observed closely, and this book is the result. It contains some surprising historical facts, and much substance for the criticism that England has until recently lagged far behind other countries—including Russia and Japan—in developing the scientific study of crime, although we now spend more on criminological research than any other European country.

In Europe, Italy gave the lead to modern criminology by the development of the "positivist" school which grew up during the 1890's, but since the 1930's the study of criminology in Italy has gradually decayed. Nevertheless the pioneer work there has had enormous influence on studies in the whole of Western Europe. While in academic thought Italy was for years in the lead, France made the most elaborate technical progress and long led the world in the preparation and analysis of statistics, but she has fallen behind in psychiatric and social inquiry. In the United States, with much more financial assistance than is possible in European countries, the institutes of criminology have become "a vast laboratory" in the last fifty years, and Dr. Radzinowicz devotes a large section of his book to a critical examination of American criminological teaching and research.

From all his observations, the author concludes that, in spite of the different progress made in various countries, one fault is universal: the teaching of criminology is neglected at all levels, although it must be admitted that almost every country he visited had better teaching provisions than there are in England. Neither The Law Society nor the Bar examinations require even the most rudimentary knowledge of penal matters, and anyone who should wish to learn about criminology after qualifying as a lawyer would find it difficult to come by any organised teaching. From justices of the peace to the Lords of Appeal in Ordinary, the judiciary learn about penology, if at all, by the accidents of experience or, if they are particularly conscientious, by the hard process of self-instruction. Even those who study law at the universities are taught nothing of the phenomenon of crime itself. But there have been stirrings in the last twenty years: the Home Office has set up a Research Unit, and no doubt Professor Radzinowicz's own institute at Cambridge will fulfil his ambition of bringing criminology closer to the other social sciences. At a time when crime is becoming a major problem of the State, it would perhaps not be extravagant to spend a little more on those organisations, such as the Maudsley and Tavistock Institutes, which have already contributed so much to our knowledge of criminal behaviour.

British Justice: The Scottish Contribution. By T. B. SMITH, O.C., D.C.L., LL.D., F.B.A. pp. xii and (with Index) 234. 1961. Published under the auspices of the Hamlyn Trust. London: Stevens & Sons, Ltd. £1 5s. net.

Professor Smith gives in this, the thirteenth series of Hamlyn lectures, a typically lively and thought-provoking account of the law and the legal system of our sister kingdom. He traces the cosmopolitan civilian heritage of Scots law and relates the gradual development of that law to its historical and comparative perspectives. Chapters on the machinery of civil and criminal justice at the present day are models of their kind, succinct, scholarly, and, as is the whole of his text, compulsively readable.

He has much of interest to say on the essential principles of private law, in particular on the double system of jurisprudence regulating the subjects of property, and his analysis of the impact that some of these principles have had upon English law is very striking and persuasive. As would be expected from his earlier writings, the chapter on constitutional issues contains a provocative appeal for a new and more liberal approach to the construction and interpretation of the Union Agreement as well as pertinent criticism of the occasional manifestations of ignorance forthcoming from "certain southern mandarins" when considering Scottish ideals and institutions.

Professor Smith is an ardent and, to your present reviewer, a well-nigh irresistible apologist of a unique legal system. His lectures will surely have great appeal to students of comparative jurisprudence and should stir even the most insular of common lawyers. It may well be, as he claims, that the greatest contribution of Scots law lies in the future—in providing a key to a possible rapprochement between the Anglo-American and the Continental systems.

Oyez Practice Notes No. 37: Road Charges. Third Edition. By J. F. GARNER, LL.M., Solicitor. pp. (with Index) 100. 1961. London: The Solicitors' Law Stationery Society, Ltd. 15s. net.

The value of this small book is indicated by the number of editions published since the first in 1955. The present one takes account of recent statutes, including the Public Health Act, 1961.

Efficiency is achieved when problems are solved quickly but this task is not easy when a solicitor is confronted with a lengthy statute and worried that other Acts and judicial decisions may be relevant. A guide of this kind provides the answer to most questions and indicates the lines for further research where that is necessary. It is written with the main purpose of assisting solicitors who do not possess a specialised knowledge of the subject.

Our only criticism is a repetition of the remarks made about the second edition (103 Sol. J. 1001). It is often necessary to draft clauses relating to road charges for insertion in contracts and conveyances and occasionally they have to be inserted in leases and mortgages. We suggest that in a further edition the precedents contained in the Appendix might be slightly revised and extended in number.

Oyez Practice Notes No. 38: The Licensing Guide. Third Edition. By MICHAEL UNDERHILL, of Gray's Inn, Barrister-at-Law. pp. 89. 1961. London: The Solicitors' Law Stationery Society, Ltd. 12s. 6d. net.

A third edition of this useful book has become necessary because of the passing of the Licensing Act, 1961; the scope of the changes made is shown by the fact that the new book is twice the size of the previous edition. It is well printed and appears in a smart white cover, although presumably this does not mean that the publishers of the Oyez Practice Notes are seeking to compete with the "glossy magazines."

The procedure for applying for liquor licences of all types and for music and copyright licences, billiard licences and tobacco licences, and for their transfer, removal and renewal, is set out adequately and clearly. The changes made by the new Act are duly mentioned so that the user of the book is at once able to see what steps have to be taken in respect of the new types of licence now with us, and what such licences are. Also, a long section on the new and complicated law relating to clubs has been included. The book will prove extremely useful to practising solicitors and to those engaged in the liquor trade. The bird's eye view which it gives of the new provisions and the concise way in which the procedural steps are indicated will be most helpful and, while Mr. Underhill himself advises the reader to use "Paterson's Licensing Acts" also, his book will continue its usefulness quite as much after as before the new edition of "Paterson" appears, because of the ease with which the outline of the law and the procedure can be ascertained from it. We recommend it to every solicitor who has a licensing practice and we would suggest that he would learn much about the new law by reading it through.

NOTES OF CASES

These notes are published by arrangement with the Council of Law Reporting. Except in respect of those marked *, full reports of the judgments, revised by the judges, will shortly appear in the Weekly Law Reports. A list of cases reported in today's issue of "W.L.R." is set out at the end of these notes.

Judicial Committee of the Privy Council CONTRACT: CHEQUE: DISCOUNTING OF: WHETHER MONEYLENDING

Hong v. Choong Fah Rubber Manufactory

Lord Denning, Lord Devlin and the Rt. Hon. L. M. D. de Silva
4th December, 1961

Appeal from the Supreme Court of the Federation of Malaya.

The appellant, having in the course of his business at Kuala Lumpur as a wholesale dealer in textiles received from customers a number of out-station cheques which would take some time to clear, and on which he could not draw until they were cleared, endorsed them over to the respondents, whose bank, for a special charge, afforded them facilities for drawing on such cheques at once, and the respondents gave the appellant their own cheques, post-dated by about a week, for the like amounts in exchange for the out-station cheques. There were also transactions between the parties the other way round, when the respondents got the appellant to discount post-dated out-station cheques they had received in the course of their business, the discount being at the rate of 8 cents per \$100 per day of the period between the date of the transaction and the maturity of the cheques. In respect of those latter transactions the respondents also gave the appellant as collateral security their own post-dated cheques maturing the same day as the out-station cheques. On the appellant suing the respondents on the cheques, which were dishonoured in both classes of transaction, the respondents contended that the contracts to which the cheques related were "for the repayment of money lent" and that the claim was unenforceable under the Moneylenders Ordinance, 1951, of Malaya, s. 15, in that the appellant was an unlicensed moneylender, or there was no memorandum as required by s. 16. The Court of Appeal of the Supreme Court of the Federation of Malaya set aside the judgment of the trial judge, who had given judgment for the present appellant for \$31,112.06. He now appealed.

LORD DEVLIN, giving the judgment, said that the business of buying bills at a discount, that was, for their value at the date of purchase, was well known and was quite distinct from moneylending. Here there was no loan of money and no promise of repayment. Their lordships' conclusion on this point was in accordance with the decision in *Olds Discount Co., Ltd. v. John Playfair, Ltd.* [1938] 3 All E.R. 275, that a purchase of book-debts for a specific sum was not a money-lending transaction. The cheques here were given not for the "repayment of money lent" but rather for the purchase or discounting of other cheques and the Moneylenders Ordinance afforded the respondents no defence. The appellant was entitled to judgment. Appeal allowed, and judgment of trial judge restored. Costs of the appeal in the Court of Appeal and of this appeal to be paid by the respondents.

APPEARANCES: *William Stabb* (Lawrance, Messer & Co.); *E. F. N. Gratiaen*, Q.C. (Ceylon), and *John A. Baker* (T. L. Wilson & Co.).

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law]

Court of Appeal

MASTER AND SERVANT: EMPLOYEE'S ADDICTION TO DANGEROUS FUMES: WHETHER DUTY TO DISMISS

***Jones v. Lionite Specialities (Cardiff), Ltd.**

Sellers, Upjohn and Diplock, L.J.J. 30th November, 1961
Appeal from Elwes, J. (p. 468, ante).

The foreman in the nickel-plating department of a factory in which was a tank containing trichlorethylene, used for

degreasing plated articles, was addicted to inhaling the vapour and died on 11th July, 1961, from a heart attack as a result of trichlorethylene poisoning. The addiction had developed in 1949 when the foreman was employed elsewhere. Between 1953 and the day of his death, although it was no part of his duty to clean out the tank, and there were regulations displayed in the department forbidding operatives to enter the tank without breathing apparatus, he was found inside the tank on three occasions. He also regularly held his head over the tank to inhale the vapours. The manager reprimanded him on two occasions and also threatened him with dismissal if he did not discontinue the practice. On the morning of his death and the previous day he had been in the degreasing plant for three hours. In an action by his widow for damages for breach of common law and statutory duty, his employers alleged contributory negligence in that he had voluntarily and deliberately inhaled the vapours. Elwes, J., found that the manager knew of the addiction and that the employers had been negligent in continuing to expose the foreman to danger. He awarded the widow £5,250 damages. The employers appealed.

SELLERS, L.J., said that the employers' duty was to take reasonable care for their employees' safety in all circumstances. The question was whether, on the evidence, that duty had been discharged. The work itself could be performed with perfect safety if the regulations were complied with. It was not the foreman's duty either to clean out the tank, or to put the articles through the trichlorethylene liquid, but as foreman he had to see that it was done and to supervise it. If he had done only that he would not have come to any harm. There was no common-law duty requiring an employer to go so far as to dismiss an employee because he thought that it was not for his good to do the work. He must do his best to make conditions as favourable as he could but there was no obligation on him to deprive the employee of his employment and his livelihood because he was not prepared to take care of himself in circumstances where he could well have done so. He would allow the appeal. The question of contributory negligence did not arise.

UPJOHN and DIPLOCK, L.J.J., agreed. Appeal allowed.

APPEARANCES: *Norman Richards*, Q.C., and *Norman Francis* (T. S. Edwards & Son, Newport, Mon.); *Phillip Wien*, Q.C., and *Deryk Howells* (Barlow, Lyde & Gilbert, for Cava & Lougher, Cardiff).

[Reported by Mrs. E. M. WELLWOOD, Barrister-at-Law]

CONTEMPT OF COURT: COMMITTAL ON BASIS OF INEVITABLE INFERENCE FROM PROVED FACTS

Rowse v. Bailey

Lord Evershed, M.R., Donovan and Danckwerts, L.J.J.
30th November, 1961

Appeal from Falmouth County Court.

By a lease granted in 1953 premises were leased for twenty-one years to a tenant, on covenants (a) not to assign without written consent and (b) not to carry on or permit or suffer to be carried on on the premises the trade or business of (1) a café or (2) sale of ice-cream or refreshments. In 1959 the tenant started a fish-and-chip business on the premises. The landlord applied to the county court and an order was made restraining the tenant from breach of covenant (b). During 1960 the tenant observed the injunction but on 26th June, 1961, a private limited company was incorporated for "the conduct of a café business," the two persons concerned in it being the tenant's accountant, A, and one B, to whom the tenant owed £4,000. Two days later the tenant agreed

to assign the lease to the company for £4,000 to be paid on completion, and, pending completion, agreed that the company might occupy the premises and "commence trading therefrom." The next day, 29th June, the company was on the premises carrying on the fish-and-chip trade. The landlord issued a summons for attachment for breach of the injunction of 1959. The county court judge, while expressing strong views on the tenant's conduct, gave him an opportunity to put an end to what appeared to be a permitting or suffering the conduct of the business by the company. The tenant took no steps. On a renewed summons, *A* gave evidence that the company knew the terms of the lease and the injunction before the agreement. The tenant did not give any evidence. The county court judge made the order for committal but stayed it on terms. The tenant appealed.

LORD EVERSHERD, M.R., said that the question was whether on the facts proved it could be said that the tenant had "permitted or suffered" the business to be carried on. It had been argued that the judge had acted on no more than suspicion and that where the liberty of the subject was involved something more was needed. His lordship agreed that it had to be proved to the reasonable satisfaction of the court that the tenant had "permitted or suffered"; but it did not follow that only direct evidence would suffice. It would suffice if the inevitable inference from the facts proved was that the tenant did permit the company to carry on the business. The facts found, taken together and in the absence of any explanation or contradiction by the tenant, raised the necessary inference that by the agreement of 28th June he had given leave for the company to carry on the business and had thereafter taken no steps to prevent it from so doing. The appeal should be dismissed; but the writ of attachment should lie on the file for fourteen days to enable the tenant to take steps to apply for a further stay or such other order as the judge might think right, having heard what steps the tenant had taken.

DONOVAN and DANCKWERTS, L.JJ., delivered concurring judgments. Appeal dismissed.

APPEARANCES: *Derek Wheatley* (Tuck & Mann, for David G. Barnett & Co., Birmingham); *Quentin Edwards* (Robbins, Olvey and Lake, for Stephens & Scown, St. Austell).

[Reported by Miss M. M. HILL, Barrister-at-Law]

SALE OF LAND: MEMORANDUM SIGNED BY ESTATE AGENTS WITHOUT NAMING VENDOR

Davies v. Sweet

Lord Eversherd M.R., Donovan and Danckwerts, L.JJ.
1st December, 1961

Appeal from Merthyr Tydfil County Court.

The plaintiff, who had already started negotiations for the purchase of land for a petrol filling station, on 14th March, 1960, saw a partner in a firm of estate agents and agreed to pay £75 for the land. She gave the estate agent a deposit of £5 and he wrote out a receipt on his firm's paper, which bore its name and address and the description of estate agents, valuers, etc., as follows: "Received from [Mrs. I.D.] of 22 Mount Pleasant Street, Dowlais, a deposit of £5 for land on which Evans Row Houses previously stood (bottom of New Road Penydarren) sold at £75 subject to planning permission for petrol station to be built. F. A. Phillips & Son." Later the vendor sought to resile from the contract. The plaintiff asked for specific performance and the county court judge so ordered. The vendor appealed, the main question on the appeal being whether the receipt of 14th March was a sufficient memorandum of the contract to satisfy s. 40 of the Law of Property Act, 1925.

DANCKWERTS, L.J., giving the first judgment, said that the description of the land was adequate. The real question was whether the vendor was sufficiently described in the

alleged memorandum. The receipt did not add any words to show that F. A. Phillips & Son [the estate agents] were signing merely as agents for some principal in such a way as to show that they were not intended to be bound and the principal was not described so vaguely as not to identify that party sufficiently. There were cases in which a vague description had been held to be fatal. But in *Basma v. Weekes* [1950] A.C. 441 (P.C.), per Lord Reid at p. 454, there was authority that, even though the person signing was known to be an agent, none the less, if he could be sued on the contract, his principal could be sued or could sue on a memorandum which was signed only by the agent and did not give the principal's name. The observations of the Board in that case justified the conclusion that in the present case the memorandum sufficiently contained the names of the contracting parties. The appeal should be dismissed.

LORD EVERSHERD, M.R., concurring, said that s. 40 of the 1925 Act did not in terms require that the contracting parties should be named or identified but rather that the memorandum should be signed by the party sought to be charged or his duly authorised agent. It was well established that such an agent, by entering personally and without qualification into a contract, would render himself liable on the contract, and none the less so though it might be established that he was in fact acting as agent for another who might also be liable under the contract.

DONOVAN, L.J., agreed with the judgments delivered. Appeal dismissed.

APPEARANCES: *Michael Corley* (Cullen & Co.); *D. A. Thomas* (William A. Crump & Son, for Gilbert Robertson & Co., Cardiff).

[Reported by Miss M. M. HILL, Barrister-at-Law]

LIMITATION: CLAIM FOR DAMAGES FOR NEGLIGENCE: AMENDMENT OF PARTICULARS AFTER EXPIRY OF LIMITATION PERIOD

Dornan v. J. W. Ellis & Co., Ltd.

Holroyd Pearce and Davies, L.JJ. 7th December, 1961
Interlocutory appeal from Winn, J.

On 10th April, 1957, a workman in a factory lost his eye through flying metal from a broken drill. A letter claiming damages was written shortly thereafter, but his then solicitor was dilatory and did not issue a writ until February, 1960, and did not serve it until January, 1961. The writ claimed damages for personal injuries caused, *inter alia*, by the negligence of "the defendants, their servants or agents." The statement of claim, delivered on 15th March, 1960, alleged that the workman was standing beside a fellow employee, S, who was drilling holes in an angle bar, that the drill disintegrated and that a piece of it struck his eye. Paragraph 2 said that the accident and resultant injuries were caused by the negligence of "the defendants, their servants or agents," and particulars of the negligence alleged that the defendants required the workman to take part in an operation which they knew was likely to involve him in the risk of injury from flying metal without providing proper means of protecting his eyes; that they failed to provide S with safe tools; and that they failed to take proper care for his safety. On 12th October, 1961, more than three years after the accident, leave was sought to amend by adding further particulars, namely, that the defendants failed to clamp the angle bar firmly into position, to ensure that the drill was firmly held in the machine, and to use reasonable care in its manipulation. Winn, J., refused leave to amend on the ground that, whereas the previous allegations were not allegations of *respondet superior*, the new allegations raised a new cause of action against the defendants in respect of their vicarious liability and that, as more than three years had elapsed, the amendment, if allowed, would deprive the

defendants of their right under the Statute of Limitations. The workman appealed.

HOLROYD PEARCE, L.J., agreed that the new allegations of negligence against the fellow employee, S, were of a different character from those previously made against the employers in their own person, but said that those were matters of degree, depending on the facts of each case. There was no special hardship on the defendants here, and he could not share the judge's view that this was a case where as a matter of principle no amendment could be allowed, nor did he consider that the amendment was precluded by the decisions in *Marshall v. London Passenger Transport Board* [1936] 3 All E.R. 83 (C.A.), and *Batting v. London Passenger Transport Board* [1941] 1 All E.R. 228 (C.A.). It was a difficult borderline case and as a matter of discretion his lordship thought that the amendment and the appeal should be allowed.

DAVIES, L.J., concurring, said that it was not sought to make out a new case of negligence, but to persist in the old story and invite the court to approach it from a different angle. Appeal allowed.

APPEARANCES: G. S. Waller, Q.C., and Oliver Wrightson (Berryman, for Crute & Sons, Newcastle-upon-Tyne); Peter Taylor (T. D. Jones & Co., for Linsley & Mortimer, Newcastle-upon-Tyne).

[Reported by Miss M. M. Hill, Barrister-at-Law]

RESTRICTIVE PRACTICES: NEW AGREEMENT: WHETHER "TO THE LIKE EFFECT" AS OLD

*In re Black Bolt and Nut Association's
Agreement (No. 2)*

Lord Evershed, M.R., Willmer and Danckwerts, L.JJ.

7th December, 1961

Appeal from the Restrictive Practices Court (L.R. 2 R.P. 433; [1961] 1 W.L.R. 1139; p. 685, *ante*).

By an agreement between the members of the Black Bolt and Nut Association of Great Britain, members could not sell black bolts and nuts to their ordinary customers at less than the prices appearing in the association's price list. When a member received an inquiry from a Government department or other large user, the agreement required him to submit it to the secretary, who circulated it among all members interested. The members interested reported to the secretary their proposed prices and the lowest price so reported became the minimum price below which no member could sell. The Restrictive Practices Court held that the price restriction relating to ordinary customers was not contrary to the public interest because it saved the customers the considerable expense and trouble of "shopping," i.e., the making of multifarious inquiries of the different manufacturers of their varying prices. The restriction relating to large users did not have that characteristic and was held to be contrary to the public interest. The association made a new agreement under which the fixed prices to all users including Government departments and large users would be the prices set out in the association's price list. The registrar applied for a declaration that the new agreement was "to the like effect" as the original agreement in respect of large users and for an injunction restraining the members from entering into it. The Restrictive Practices Court refused his application. The registrar appealed.

LORD EVERSHED, M.R., said that when a restriction was declared to be contrary to the public interest the court had power under s. 20 (3) of the Restrictive Trade Practices Act, 1956, to restrain any person party to the agreement from giving effect to the restriction or "from making any other agreement . . . to the like effect." The question, therefore, was whether the new agreement was "to the like effect"

as the original agreement. The duty of the court was to look at the new agreement, see what its terms would do and see if those were the same as the old agreement would have achieved. On the material before the court in the present case it could not be said that, despite the changes made by the new agreement, it was intended to operate and must in practice work in the same way as the old. Therefore, it was not "to the like effect" and the appeal would be dismissed.

WILLMER and DANCKWERTS, L.JJ., agreed. Appeal dismissed.

APPEARANCES: Peter Foster, Q.C., and Robin Dunn (Treasury Solicitor); H. A. P. Fisher, Q.C., and Walter Gumbel (Allen & Overy).

[Reported by NORMAN PRIMOST, Esq., Barrister-at-Law]

Chancery Division

"FAIR OR WAKE": IMPLIED GRANT OF FRANCHISE

Wyld and Others v. Silver

Lloyd-Jacob, J. 1st November, 1961

Action.

A private Act of Parliament of 1799 recited that the inhabitants of the parish of Wraybury were by ancient usage entitled to hold a fair or wake on the Friday in Whitsun week annually upon a certain part of the waste lands of the parish, and enacted that the commissioners appointed by the Act for the purpose of making an enclosure award should be empowered to appoint a parcel of the waste lands for the purpose of holding the fair or wake thereon. It further enacted that the surface of the appointed parcel should not be disturbed. By the award the commissioners allotted three adjoining parcels to named recipients "subject to holding the same annual fair or wake thereon and for which compensation hath been made." No fair had been held in the village within living memory; the last recorded occasion of its occurrence was 29th May, 1875. One of the three parcels was acquired by the defendant with a view to development as a building site. The abstract of title made available to him commenced in April, 1900, and contained no reference to the right reserved by the enclosure award. The defendant obtained planning permission for the erection of five dwellings, and by March, 1959, the preparatory work on the site had progressed sufficiently for it to be observed by parishioners. The plaintiffs, four inhabitants of the parish, claimed on behalf of themselves and all other inhabitants of the parish declarations that the inhabitants were entitled to hold an annual fair on the defendant's plot and that the defendant was not entitled to disturb the soil or erect any building on it and an injunction restraining the defendant from disturbing the soil and erecting buildings. The defendant denied the existence of the right to hold the fair and also objected that the action was not maintainable by the plaintiffs.

LLOYD-JACOB, J., said that the restrictions in the award were imposed for the preservation of a right recited in the Act as having been acquired by ancient usage. But it was clear that neither the Act nor the award created any new right. The defendant therefore relied on authorities which established that a mere recital in a local Act was not conclusive of the fact. However, in the absence of positive evidence to question their accuracy, the recitals followed by the award must be taken as establishing the existence of the franchise to hold a fair. The failure to hold the fair in more recent times could not deny the reality of its regular observance in times past. As to the objection that the plaintiffs could not maintain the action, the mere fact that a right was possessed by persons who were members of the public did not make that right a public right; a right to hold a fair limited to the

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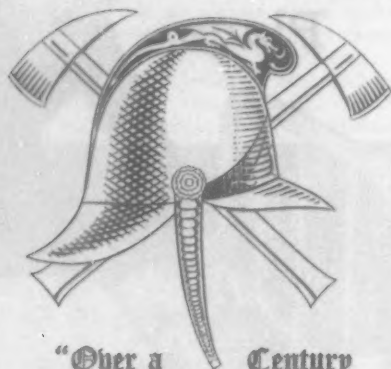
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inhabitants of a parish was not a public but a private right and, therefore, the Attorney-General was not a necessary party to the action. Furthermore, the parish council was not the custodian of the right, since the transfer of the powers, duties and liabilities of the vestry to the parish council effected by s. 6 (1) (a) of the Local Government Act, 1894, did not include a franchise to hold a fair. Consequently, the right still remained in the inhabitants of the parish, and the plaintiffs, as representatives of the inhabitants, could maintain the action. Declarations accordingly.

APPEARANCES: *Arthur Bagnall, Q.C.*, and *Oliver Lodge (Jaques & Co., for Barrett & Thomson, Slough)*; *H. E. Francis, Q.C.*, and *D. S. Chetwood (Gilhams, for Boyes, Turner & Burrows, Staines)*.

[Reported by EVERARD CORBALLY, Esq., Barrister-at-Law] [3 W.L.R. 1303]

TRUSTS: VARIATION: INVESTMENT POWERS: QUANTITATIVE LIMITATION AND DIVIDEND HISTORY REQUIREMENT

In re Clarke's Will Trusts

Russell, J. 6th November, 1961

Summons.

By his will, a testator, who died in 1933, empowered his trustees to invest the trust funds, *inter alia*, in stock or shares, debentures or debenture stock of any corporation if such were quoted on the Stock Exchange in London, New York or Montreal or the Paris Bourse with the dividend history that "such corporation shall for the five years immediately preceding the date of investment have paid preferential dividend" and a "dividend at the rate of not less than £5 per cent. per annum on all other stock and shares issued thereby," with the proviso that (a) not more than £2,000 might be invested in the same security where the security comprised the stock or securities of any government or state or of any municipal corporation, power or local authority, and (b) not more than £1,000 might be invested in the same security where the security comprised stock or shares, debentures or debenture stock of any corporation. On an earlier application made under the Variation of Trusts Act, 1958, an order was made substituting £5,000 for the limits of £2,000 and £1,000. On 16th May, 1961, a summons was taken out under s. 1 of the Act of 1958, asking the court to abolish the quantitative limitation and dividend history requirement, and in the alternative for authority to treat certain investments as authorised.

RUSSELL, J., said that the question was whether it was a proper case in which to exercise the powers of the court under the Act of 1958 which were preserved by the Act of 1961, by deleting generally the restrictions imposed by the testator on the quantity to be invested in any one security and the requirements in relation to dividend history. It was represented that in various ways such restrictions and requirements were detrimental to the most profitable management of this substantial estate. His lordship thought it was a case in which a variation might be properly made. The testator was content that all should be invested, if thought fit, in ordinary shares. In those circumstances a variation of the safeguards imposed by the testator which did no more than bring them in line with the safeguards of a similar character imposed by the Act did not, in his lordship's judgment, produce a conflict with the views expressed in the Act. Nor did he think that the fact that in 1959 the application was only to extend the quantity limit to £5,000 should prejudice the present application if it was otherwise justified. It was beneficial for all concerned that the quantitative limitation should be abolished and that for the dividend history requirement under the will there should be substituted the restrictions on investment in the wider range which were imposed by Sched. I, Pt. IV, para. 3, to the Act of 1961, together with its attribution of a

notional dividend history to a new company formed to take over the business or securities of another company or companies. Order accordingly.

APPEARANCES: *D. A. Ziegler*; *T. A. C. Burgess (Hatchett, Jones & Co.)*.

[Reported by A. RAZI, Esq., Barrister-at-Law]

COMPANY: WINDING-UP PETITION: DISPUTE AS TO AMOUNT ONLY OF PETITIONER'S DEBT

In re Tweed Garages, Ltd.

Plowman, J. 30th November, 1961

Petition.

On 4th July, 1961, a petition was presented for the compulsory liquidation of a company based on an alleged debt of £20,039 9s. 3d. in respect of hire-purchase and credit transactions on the sale of motor cars. The company admitted that, at the material date, it owed something to the petitioner, but disputed the amount of the debt.

PLOWMAN, J., said that he was satisfied on the evidence that the company was insolvent. The only qualification required of the petitioner was that it should be a creditor and about that there was no dispute. Where there was no doubt that the petitioner was a creditor for a sum which would otherwise entitle him to a winding-up order, a dispute as to the precise amount owed was not a sufficient answer to his petition. Compulsory winding-up order.

APPEARANCES: *A. C. Sparrow (Tarlo, Lyons & Co.; White & Leonard)*; *Ian McCulloch* and *T. J. Craven (Austin, Ryder & Co.)*.

[Reported by Miss V. A. MOXON, Barrister-at-Law]

Queen's Bench Division

ROAD TRAFFIC: NOTICE OF INTENDED PROSECUTION: MOTORIST IN HOSPITAL: NOTICE SENT TO HOME ADDRESS

Hosier v. Goodall

Lord Parker, C.J., Ashworth and Widgery, JJ.
30th November, 1961

Case stated by Kent Justices sitting at Sevenoaks.

A driver was involved in an accident on 24th December, 1960, and that day was taken to hospital. On the next day a policeman called there and was told that the driver might remain in hospital for seven days. By 2nd January, 1961, the same policeman was told that he could not see the driver, who would be there for at least fourteen days after the accident. The driver saw his wife and was able to receive and understand letters given to him by her from the seventh day of his stay in hospital. On 2nd January, 1961, a notice of intended prosecution, under s. 241 of the Road Traffic Act, 1960, was sent by registered post to the home address of the driver; his wife received that notice, which she read, but neither showed nor mentioned it to the driver until about a month after the accident. The driver subsequently appeared before the justices on a charge of driving without due care and attention. The justices, being of the opinion that the police had failed to comply with s. 241, determined that the police had acted unreasonably and dismissed the charge. On appeal by the police, the question for the opinion of the court was whether or not the driver was properly served with the notice.

LORD PARKER, C.J., said that the notice was not only sent to the driver's home, it was taken in by his wife; there was an irresistible inference that she was authorised to take the notice and receipt by her was receipt by the driver. The law before the 1960 Act dealt with the sending and not the receipt of the notice and the cases were then based on the reasonableness of the police. Under the 1960 Act reasonableness did not

enter into the matter at all. The justices were wrong and the case would be remitted to them, with a direction that the notice was duly served, to hear and determine the charge.

ASHWORTH and WIDGERY, JJ., agreed. Appeal allowed.

APPEARANCES: *Paul Wrightson* (*Sharpe, Pritchard & Co.*, for *N. K. Cooper*, Maidstone); the driver was not represented and did not appear.

[Reported by G. L. PEAR, Esq., Barrister-at-Law]

ROAD TRAFFIC: PARKING OFFENCE: WHETHER DRIVER OBLIGED TO IDENTIFY HIMSELF

Bingham v. Bruce

Lord Parker, C.J., Slade and Widgery, J.

6th December, 1961

Case stated by a Bow Street magistrate.

On 1st October, 1960, the defendant left a car in a street specified as a restricted street in Sched. I to the London Parking Zones (Waiting and Loading) Restriction Regulations, 1960, thereby committing an offence. She was not the owner of the car. In December, 1960, a police inspector saw the defendant, said to her that it was alleged that the driver of the car had committed the offence, that he had been told that she was the driver, and asked her, under s. 232 (2) of the Road Traffic Act, 1960, to tell him who was the person in charge of and driver of the car. The defendant refused to give the information, saying that she did not think that the law obliged her to give it. Had she given the information she would have incriminated herself. The defendant was convicted under s. 232 (2) of the Act of 1960 of failing to give such information as she was required to give and which might lead to the identification of the driver of a motor vehicle who was alleged to be guilty of an offence under reg. 3 of the London Parking Zones (Waiting and Loading) (Restriction) Regulations, 1960, and reg. 1 of regulations made by the Commissioner of Police on 16th September, 1960. She appealed against that conviction, it being contended that s. 232 (2) imposed no obligation on her to give the information since she was not the "owner" within para. (a), nor, as the driver, was she "any other person" within para. (b). It was also contended that s. 232 (2) had no application to the alleged parking offence.

LORD PARKER, C.J., said that the question was one of construction of s. 232 (2). It had been put no higher than that there was at any rate an ambiguity and that if there was an ambiguity, in the case of a provision purporting to take away common-law rights, or of a penal provision, the court leant against a construction which would have the effect of taking away such rights or inflicting a penalty. His lordship had come to the conclusion that there was no ambiguity. The argument to the contrary was that paras. (a) and (b) were interchangeable. But the right view was that "any other person" in para. (b) meant any person other than the "owner" referred to in para. (a) and not other than the driver mentioned at the beginning of the subsection. The clue was that the driver was unknown and the object of the section was to identify the driver. "Any other person" included the driver, and the driver committed an

offence if he did not give the information required. Section 35 of the Act of 1960, under which the regulations were made, by subs. (3), made contravention of the regulations an offence and laid down penalties. That section was in Pt. II of the Act, to which, by subs. (1) (a), s. 232 applied. The magistrate was right in convicting and his lordship would dismiss the appeal.

SLADE and WIDGERY, JJ., agreed. Appeal dismissed.

APPEARANCES: *A. J. Irvine*, Q.C., and *Henry Summerfield* (*Amery-Parkes & Co.*); *Paul Wrightson* (*Solicitor, Metropolitan Police*).

[Reported by Miss J. F. LAMB, Barrister-at-Law]

Probate, Divorce and Admiralty Division

DIVORCE: NO PRAYER FOR COSTS IN PETITION: COSTS OF PRELIMINARY ISSUE

**Fabbri v. Fabbri*

Scarman, J. 1st December, 1961

Preliminary issue.

The husband, an Italian national living in London, petitioned for a decree of divorce from his wife, who was residing in Italy. In a preliminary issue as to domicile, Scarman, J. (p. 1068, ante) found that the husband had, at the time of the institution of the suit, acquired a domicile of choice in England to enable him to bring the proceedings. The husband sought an order for costs of the issue to be made against the wife, although his petition did not include a prayer for costs.

SCARMAN, J., said that the absence of a prayer for costs in the petition did not appear to him to remove jurisdiction from the court to order costs on the issue. The husband had succeeded on the issue and was therefore entitled to costs and his lordship would make an order accordingly.

APPEARANCES: *J. B. Latey*, Q.C., and *S. Seuffert* (*Crawley & de Reya*); *J. G. Leach* (*Theodore Goddard & Co.*).

[Reported by Miss MARGARET BOOTH, Barrister-at-Law]

THE WEEKLY LAW REPORTS

CASES INCLUDED IN TODAY'S ISSUE OF W.L.R.

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<i>Brassington v. Brassington</i> (p. 910, ante) ..	3	1411
<i>Chapman v. Chapman</i> (by his guardian) (p. 933, ante) ..	1	1481
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<i>Merchandise Transport, Ltd. v. British Transport Commission; Arnold Transport, Ltd. v. British Transport Commission</i> ..	3	1358
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<i>Rennell v. Inland Revenue Commissioners</i> (p. 948, ante) ..	3	1322

PRACTICE NOTE

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be lodged in the Registry by the applicant prior to the hearing of the application.

B. LONG,
Senior Registrar,
Principal Probate Registry.

1st December, 1961.

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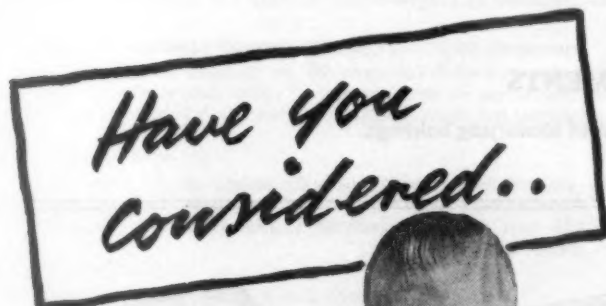
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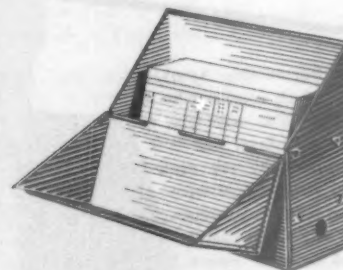
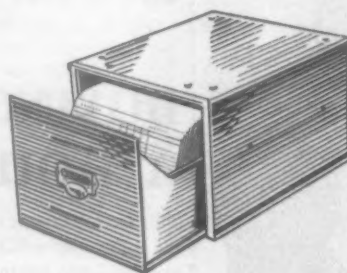
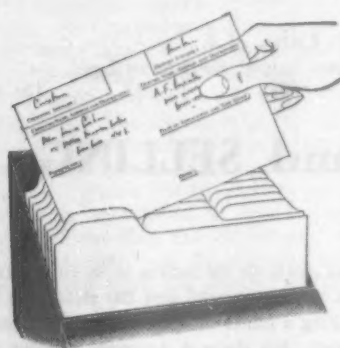
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HOUSE OF LORDS

PROGRESS OF BILLS

Read First Time:—

Civil Aviation (Eurocontrol) Bill [H.C.] [5th December.
Coal Industry Bill [H.C.] [5th December.

Read Third Time:—

Expiring Laws Continuance Bill [H.C.] [5th December.
Export Guarantees Bill [H.C.] [5th December.

In Committee:—

Road Traffic Bill [H.L.] [30th November.

HOUSE OF COMMONS

A. PROGRESS OF BILLS

Read First Time:—

Argyll County Council (Scalasaig Pier, etc.) Order Confirmation Bill [H.C.] [7th December.

To confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act, 1936, relating to Argyll County Council (Scalasaig Pier, etc.).

Diesel Fumes Bill [H.C.] [6th December.

To enable new measures to be taken to abate the emission of diesel fumes from vehicles.

Edinburgh Corporation Order Confirmation Bill [H.C.] [5th December.

To confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act, 1936, relating to Edinburgh Corporation.

Law Reform (Damages and Solatium) (Scotland) Bill [H.C.] [6th December.

To amend the law of Scotland relating to damages and solatium by extending the entitlement of parents to sue in respect of the death of a child, and of a child to sue in respect of the death of his mother.

Recorded Delivery Service Bill [H.C.] [8th December.

To authorise the sending by the recorded delivery service of certain documents and other things required or authorised to be sent by registered post; and for purposes connected therewith.

Read Second Time:—

Forth and Clyde Canal (Extinguishment of Rights of Navigation) Bill [H.C.] [4th December.
National Assistance Act, 1948 (Amendment) Bill [H.C.] [8th December.

Read Third Time:—

Rothsay Borough Order Confirmation Bill [H.C.] [7th December.

To confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act, 1936, relating to Rothsay Burgh.

In Committee:—

Army Reserve Bill [H.C.] [7th December.
Commonwealth Immigrants Bill [H.C.] [6th December.

B. QUESTIONS

JURORS

Asked whether he would take steps to make alterations in the qualifications required for jury service so as to ensure that all jurors were capable of fulfilling their responsibilities, Mr. R. A. BUTLER replied that he could hold out no prospect of early legislation on the matter. Any proposal for testing the mental capacity of prospective jurors would raise difficult problems. [7th December.

JURIES IN CIVIL ACTIONS

The ATTORNEY-GENERAL said that, of civil actions in the Queen's Bench Division in London and Middlesex in the twelve months ending 1st October, 1961, twenty-three were tried by judge and jury and 752 by judge alone. Figures for trials at

assizes for that period were not at present available. For the year 1960 the corresponding figures were: in London and Middlesex, sixteen actions tried by judge and jury and 825 by judge alone, and at assizes eight tried by judge and jury and 1,148 by judge alone. [8th December.

SPECIAL JURIES

The ATTORNEY-GENERAL declined to introduce legislation to repeal s. 18 of the Juries Act, 1949, and re-establish the right of litigants to have civil issues tried by special juries with appropriate qualifications, remarking that cases in the commercial list could still be tried by a City of London special jury, but he did not think there was any need to re-introduce special juries in other civil cases. [8th December.

STATUTORY INSTRUMENTS

Acquisition of Land (Rate of Interest after Entry) (No. 2) Regulations, 1961. (S.I. 1961 No. 2280.) 6d. See p. 1041, ante.

Acquisition of Land (Rate of Interest after Entry) (Scotland) (No. 2) Regulations, 1961. (S.I. 1961 No. 2281.) 6d.

Act of Sederunt (Valuation Appeal Rules Amendment), 1961. (S.I. 1961 No. 2205 (S. 123).) 6d.

Alkali, etc., Works Order, 1961. (S.I. 1961 No. 2261.) 6d.

The discharge of certain noxious or offensive gases, smoke, grit and dust from certain types of works is subject to control under the Alkali, etc., Works Regulation Act, 1906, as extended by virtue of s. 17 of the Clean Air Act, 1956. Both types of works and the list of gases may be added to from time to time by order of the Minister of Housing and Local Government, and this order makes the additions specified in the Schedules thereto.

Anti-Dumping Duty Order, 1961. (S.I. 1961 No. 2255.) 6d.

Approved Schools (Scotland) Rules, 1961. (S.I. 1961 No. 2243 (S. 124).) 11d.

Building Societies (Additional Security) (No. 2) Order, 1961. (S.I. 1961 No. 2245.) 6d.

Commonwealth Institute (Republic of Cyprus) Order, 1961. (S.I. 1961 No. 2275.) 6d.

County Court Districts (Eye) Order, 1961. (S.I. 1961 No. 2254.) 6d. See p. 1069, ante.

County of Angus General Hospitals Endowments Scheme Confirmation Order, 1961. (S.I. 1961 No. 2268 (S. 128).) 7d.

County of Inverness (Voadker Burn, Struan, Skye) Water Order, 1961. (S.I. 1961 No. 2278 (S. 129).) 7d.

Crofters Livestock Purchase Loans (Scotland) Scheme, 1961. (S.I. 1961 No. 2267 (S. 127).) 6d.

Crofting Counties Agricultural Grants (Scotland) Scheme, 1961. (S.I. 1961 No. 2266 (S. 126).) 7d.

East Africa (High Commission) (Revocation) Order in Council, 1961. (S.I. 1961 No. 2315.) 7d.

Eastern African (Appeal to Privy Council) (Amendment) Order in Council, 1961. (S.I. 1961 No. 2324.) 6d.

Draft Electricity (Borrowing Powers) Order, 1961. 6d.

Draft Electricity (Borrowing Powers) (South of Scotland Electricity Board) Order, 1961. 6d.

Exchange Control (Scheduled Territories) (Amendment) Order, 1961. (S.I. 1961 No. 2293.) 6d.

Foreign Compensation (Egypt) (Interim Distribution) (Amendment) Order, 1961. (S.I. 1961 No. 2276.) 6d.

The purpose of this order is to amend the Foreign Compensation (Egypt) (Interim Distribution) Order, 1959, as previously amended, so as to provide for an increase in the amounts of interim payments of compensation.

Fugitive Offenders (Grouping of Territories) Order in Council, 1961. (S.I. 1961 No. 2272.) 7d.

Great West Road and Bath Road (Peak-hour Clearway) Regulations, 1961. (S.I. 1961 No. 2247.) 11d.

Kenya (Constitution) (Amendment No. 2) Order in Council, 1961. (S.I. 1961 No. 2273.) 7d.

Leicestershire (Advance Payments for Street Works) Order, 1961. (S.I. 1961 No. 2302.) 6d.

Local Government (Qualifications of Sanitary Inspectors) (Scotland) Regulations, 1961. (S.I. 1961 No. 2265 (S. 125).) 6d.

London Traffic (Prescribed Routes) (City of London) (No. 4) Regulations, 1961. (S.I. 1961 No. 2258.) 6d.
London Traffic (Prescribed Routes) (Holborn, City of London and Westminster) Regulations, 1961. (S.I. 1961 No. 2248.) 6d.
London Traffic (Prescribed Routes) (Lambeth) (No. 2) Regulations, 1961. (S.I. 1961 No. 2249.) 6d.
National Health Service (Designation of London Teaching Hospitals) Order, 1961. (S.I. 1961 No. 2271.) 6d.
Oil in Navigable Waters (Convention Countries) (United States of America) Order, 1961. (S.I. 1961 No. 2277.) 6d.
Purchase Tax (No. 2) Order, 1961. (S.I. 1961 No. 2285.) 11d.
Draft Railway Employment Exemption Regulations, 1961. 6d.
Southern Rhodesia (Constitution) Order in Council, 1961. (S.I. 1961 No. 2314.) 2s. 10d.
Stopping up of Highways Orders, 1961:—
 City and County Borough of Birmingham (No. 12). (S.I. 1961 No. 2257.) 6d.
 County of Chester (No. 27). (S.I. 1961 No. 2228.) 6d.
 County of Chester (No. 28). (S.I. 1961 No. 2229.) 6d.
 County of Essex (No. 20). (S.I. 1961 No. 2231.) 6d.
 County of Essex (No. 21). (S.I. 1961 No. 2216.) 6d.
 County of Glamorgan (No. 5). (S.I. 1961 No. 2227.) 6d.
 County of Lancaster (No. 37). (S.I. 1961 No. 2289.) 6d.
 London (No. 48). (S.I. 1961 No. 2232.) 6d.
 London (No. 52). (S.I. 1961 No. 2221.) 6d.
 County of Montgomery (No. 2). (S.I. 1961 No. 2269.) 6d.
 County of Norfolk (No. 4). (S.I. 1961 No. 2230.) 7d.
 County of Norfolk (No. 5). (S.I. 1961 No. 2262.) 6d.
 County of Stafford (No. 13). (S.I. 1961 No. 2283.) 6d.
 County of Surrey (No. 11). (S.I. 1961 No. 2246.) 6d.

County of York (West Riding) (No. 24). (S.I. 1961 No. 2284.) 6d.
 County of York, West Riding (No. 28). (S.I. 1961 No. 2290.) 6d.
Strategic Goods (Control) Order, 1961. (S.I. 1961 No. 2242.) 1s. 9d.
Supreme Court Funds Rules, 1961. (S.I. 1961 No. 2299 (L.6).) 6d. See p. 1089, *post*.
Totterhoe Commons Order, 1961. (S.I. 1961 No. 2294.) 6d.
Wages Regulation (Retail Drapery, Outfitting and Footwear) (Amendment) Order, 1961. (S.I. 1961 No. 2279.) 6d.
White Fish and Herring Subsidies (Aggregate Amount of Grants) (No. 2) Order, 1961. 6d.
White Fish Subsidy (United Kingdom) (Amendment) Scheme, 1961. 7d.

SELECTED APPOINTED DAYS

December

1st Betting and Gaming Act, 1961, all provisions not already in force, i.e., s. 6; s. 29 (3) and Sched. VI, Pt. II, in so far as they relate to the Street Betting Act, 1906, s. 1 (3).
 2nd Acquisition of Land (Rate of Interest after Entry) (No. 2) Regulations, 1961. (S.I. 1961 No. 2280.)
 4th Wages Regulation (Retail Food) (England and Wales) (No. 2) Order, 1961. (S.I. 1961 No. 2072.)
 18th Supreme Court Funds Rules, 1961. (S.I. 1961 No. 2299 (L.6).)
 Wages Regulation (Retail Drapery, Outfitting and Footwear) (Amendment) Order, 1961. (S.I. 1961 No. 2279.)

CORRESPONDENCE

[The views expressed by our correspondents are not necessarily those of "The Solicitors' Journal"]

Small Litigation

Sir,—What is to be the future of the hundreds of thousands of tiny cases that drift in and out of solicitors' offices every year? The authorities may have to appoint some sort of Ombudsman who can dispense swift justice without formality and directly to the parties. There seems to be no other way to cover the case of the £5 lent to the friend, the missing laundry, and the defective oil stove, etc.

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"After-Sales Service" in Conveyancing

Sir,—Mr. M. S. Gunn in his letter appearing in your issue of 1st December (p. 1005), purports to voice the opinion of "the majority of the profession."

I more humbly venture to suggest that some of the profession will think as I do that Mr. Gunn's letter has unjustifiably turned H.L.M.'s amusing and innocuous article sour.

Some of us are mildly irritated by the after-sales service some clients require. If the truth be known, we all probably grin and bear it, regardless of our religions.

London, W.1.

ALAN GERSHON.

Eavesdropping

Sir,—Overheard in the corridor outside the Divorce Court here:—

Counsel (interviewing wife-petitioner): "I suppose you want custody of the children and all that sort of thing."

Cambridge.

"CAMBRIAN."

"THE SOLICITORS' JOURNAL," 14th DECEMBER, 1861

ON 14th December, 1861, THE SOLICITORS' JOURNAL criticised the New York Bar for welcoming a disbarred English Queen's Counsel: "Mr. Edwin James appears to have found at last a suitable field for his talents... A considerable share of impudent assurance, and a blustering habit of reckless assertion, no doubt are valuable qualifications for advocacy in courts of *nisi prius* and criminal law. Of both Mr. Edwin James had a greater share than falls to the lot of most Englishmen... It is not very easy, however, for any man of notoriously tainted character to maintain a prominent position in this country, and the scandals about Mr. Edwin James left the Benchers of his Inn of Court no option but to arraign him at their tribunal... He made an effort to arrest the sentence disbarring him by offering to pledge himself never again to practise in England; and this he did in the hope of being allowed to proceed to the United States or one of our colonies in the character of an English barrister. The suggestion, however, was rejected... Under these circumstances it might have been supposed that it would have been impossible for Mr. James ever again to appear as a barrister in any part of the world where the English language is spoken... The

New York Bar were... guilty of a shameless disregard of English public opinion when they received into their ranks with indecent joy a man who but a few weeks before had been declared to be unworthy to retain his position as an English barrister... When the account from the *New York Times* of Mr. James' 'admission' appeared in English journals, everyone... asked whether he was himself... the author of that memorable historiette. According to it the English statute book is indebted to Mr. James... 'for the new Bankruptcy Act and many of the wisest measures which have marked the course of legal reform in the past few years.'... It was he... who projected, directed, and controlled the Italian campaign of 1860—the counsellor of Cavour and the guardian angel of Garibaldi... To be sure people on this side of the Atlantic were rather surprised at their ignorance of these marvellous passages in the history of a man whom they knew so well as unlikely to hide his light under a bushel. Not even that illustrated journal which amused the public with a woodcut of our hero in his shirt and trousers ever hinted that he charged the foes of Italy in the renowned battles of Caprera and Volterino..."

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(Continued on p xix)

Please mention "THE SOLICITORS' JOURNAL" when replying to Advertisements

POINTS IN PRACTICE

Questions, which can only be accepted from practising solicitors who are subscribers either directly or through a newsagent, should be addressed to the "Points in Practice" Department, The Solicitors' Journal, Oyes House, Dreams Buildings, Fetter Lane, London, E.C.4. They should be brief, typewritten in duplicate, and accompanied by the name and address of the sender on a separate sheet, together with a stamped addressed envelope. Responsibility cannot be accepted for the return of documents submitted, and no undertaking can be given to reply by any particular date or at all.

Charging Order on Joint Tenant's Interest

Q. A has a judgment in the county court against B. B, with his wife, jointly owns Blackacre. Can A obtain a charging order on B's interest in Blackacre under the Administration of Justice Act, 1956, s. 35, bearing in mind *Stevens v. Hutchinson* [1953] Ch. 299, and *Cooper v. Critchley* [1955] Ch. 431? In fact is B's interest an interest in land?

A. It has been argued that on the authority of *Cooper v. Critchley* the share of a joint tenant is an "interest in land" and, consequently, a charging order can be obtained: see 102 Sol. J. 317, 318. Nevertheless, there is a reference at 102 Sol. J. 367 to an unreported decision to the contrary, and so the answer to your question appears to be in the negative: see Emmet on Title, 14th ed., second supplement, p. 83.

Loss of Mortgage

Q. A local authority mortgage repayable over twenty years has been lost. How do you consider this loss should be made good? Do you consider that the draft should be exhibited to a statutory declaration of a solicitor who had charge of the matter explaining its loss and that it was duly stamped and executed? Do you consider that such draft should be presented to the stamp authorities for stamping as a duplicate of a document which has been lost? If you do not think this appropriate, what do you suggest should be done so that if necessary an action could be founded on the lost mortgage?

A. We assume that you refer to a mortgage securing money borrowed from the authority, e.g., under the Housing Act, 1957. We think the suggestion of making a statutory declaration

exhibiting the draft is sound. The declaration should state what stamp duty was impressed on the original and, if this is done, we see no reason why it should be presented to the stamping authorities or stamped.

Highways—STOPPING UP—SHOPKEEPERS WITHOUT COMPENSATION

Q. The Minister of Transport has published notice that he proposes to make an order under the Highways Act, 1959, s. 9, providing for the stopping up to vehicular traffic of a length of road in which our client has his shop. Although pedestrians will still be able to pass, there will be no cars and no bicycles as the road will become a cul-de-sac, and our client's shop will be almost at the end of it. We have little doubt that his trade will be seriously affected but we are unable to find anything in the above Act and we are not aware of anything in the general law which will enable our client to make any claim for compensation. It does not appear that any part of our client's property will be acquired by the Minister. The notice which has been published provides that objections may be sent in to the Minister but it is not easy to see how the undoubted detriment to our client's business can be put in the form of an objection to the proposed work. There is little doubt that another reasonably convenient route is available so as to comply with s. 9 (2), so we do not think we can attack the proposal on this ground. Is there any compensation provision available to our client?

A. No compensation is legally payable in these circumstances. It is a situation which has arisen in several parts of the country, and one on which amending legislation would seem to be desirable.

NOTES AND NEWS

SUPREME COURT FUNDS RULES AMENDED

The Supreme Court Funds Rules, 1961 (S.I. 1961 No. 2299 (L.6)), in operation on 18th December, raise the maximum amount which may be paid out of court on the written authority of a master and without an order of the court. Secondly, they provide that where short dated Government securities are dealt with by exchange, as provided by r. 81 of the Supreme Court Funds Rules, 1927, the prices at which purchases and sales are effected shall be one-thirty-second per cent. above and below the bank average price respectively, instead of one-sixteenth per cent. as in the case of other Government securities, and that the amount dealt with under r. 84 as profit arising from these transactions is to be calculated accordingly.

PROBATE MARKING SERVICE

The possibility of introducing a probate marking service in this country is being investigated by the Chartered Institute of Secretaries. Such a service, recently introduced in Melbourne, Australia, is designed to save time for personal representatives of deceased investors and their solicitors. Instead of probate documents being forwarded in turn to every company in which shares were held, they may be sent to the appropriate stock exchange, which notifies the companies concerned. The introduction of a similar service for the marking of powers of attorney is also under consideration.

SHARE TRANSFERS

The penultimate sentence in the Current Topic entitled as above, at p. 1016, *ante*, should have read: "Use of a photograph of a transfer will be permitted provided that original particulars in respect of the lodging transferee are supplied."

COMMERCE AND INDUSTRY GROUP

An inaugural meeting of the Commerce and Industry Group of The Law Society was held at The Law Society's Hall on 7th December, under the chairmanship of Mr. A. J. Driver, the president. Some 200 solicitors attended and decided that membership of the group should be open to members of The Law Society employed in any full-time capacity in commerce or industry. The following members were elected to form a committee of the group and to remain in office for one year: A. C. Swan (Bentalls, Ltd.), H. T. Milnes (Boots Pure Drug Co., Ltd.), A. P. W. Mower White (Fisons, Ltd.), J. W. Ridsdale (Imperial Chemical Industries, Ltd.), F. H. E. Townshend-Rose (National Coal Board), M. A. R. George (Prudential Assurance Co., Ltd.), M. Haddon-Grant (Plessey Co., Ltd.), J. G. Senior (Regent Oil Co., Ltd.) and P. P. Richbell (South Eastern Gas Board).

LAW SOCIETY LUNCHEON

The president of The Law Society, Mr. Arthur J. Driver, gave a luncheon party at 60 Carey Street, London, W.C.2, on 1st December. The guests were: The Ambassador for the Republic of Ireland, Lord Ritchie of Dundee, Lord Justice Upjohn, Mr. S. P. Chambers, Mr. Cyril G. Randolph, Master A. H. King, Mr. Henry B. Lawson (vice-president, Law Society), Mr. E. W. Powell, and Sir Thomas Lund.

INTRUST FUND

Unicorn Securities, Ltd., have announced the establishment of Intrust Fund, a unit trust scheme especially designed to meet the provisions of the Trustee Investments Act, 1961, and to help trustees who wish to invest part of their funds in the wider range investments now allowed.

SUPREME COURT

CHRISTMAS VACATION, 1961

Notice is hereby given that an order has been made under r. 6 of Ord. 63 closing the offices of the Supreme Court from Saturday, 23rd December, to Wednesday, 27th December, 1961, inclusive. The Personal Application Department of the Principal Probate Registry and the District Probate Registries will remain open on Wednesday, 27th December. The order does not apply to the District Registries of the High Court, each of which will be closed on the same days as the local county court office.

HIGH COURT OF JUSTICE

CHRISTMAS VACATION, 1961-62

There will be no sitting in court during the Christmas Vacation. During the Christmas Vacation all applications "which may require to be immediately or promptly heard" are to be made to the judge acting as Vacation Judge. No application which does not fall strictly within this category will be dealt with.

The Honourable Mr. Justice Widgery will act as Vacation Judge from Friday, 22nd December, 1961, to Sunday, 31st December, 1961, both days inclusive. His lordship will sit as Queen's Bench judge in chambers, in judges' chambers, on Thursday, 28th December at half-past ten. The Honourable Mr. Justice Plowman will act as Vacation Judge from Monday, 1st January, 1962, to Wednesday, 10th January, 1962, both days inclusive. His lordship will sit as Queen's Bench judge in chambers, in judges' chambers, on Thursday, 4th January, at half-past ten.

When the judge is not sitting in chambers, application may be made if necessary, but only in cases of real urgency, to the judge personally. The address of the judge must first be obtained at Room 136, Royal Courts of Justice, and telephonic communication to the judge is not to be made except after reference to the officer on duty at Room 136. Application may also be made by prepaid letter, accompanied by the brief of counsel, office copies of affidavits in support of the application and a minute on a separate sheet of paper signed by counsel, of the order he may consider the applicant entitled to, and also an envelope, sufficiently stamped, capable of receiving the papers, addressed as follows:—"To the Registrar in Vacation, Chancery Registrars' Chambers, Royal Courts of Justice, London, W.C.2." The papers sent to the judge will be returned to the registrar.

CHANCERY DIVISION

CHRISTMAS VACATION, 1961-62

During the Christmas Vacation summonses may be issued and appointments obtained in the Summons Rooms set out below:—

DATE	GROUP A		GROUP B	
	A-F and G-N	O-Z	A-F and all Master Hawkins' pre-1961 L-R cases	G-N and O-Z
1961				
22nd December ..	156	165	174	166
28th December ..	165	168	165	165
29th December ..	165	165	165	165
1962				
1st January ..	156	156	156	156
2nd January ..	156	156	156	156
3rd January ..	156	156	156	156
4th January ..	156	156	156	156
5th January ..	164	164	164	164
8th January ..	156	165	174	164
9th January ..	156	165	174	164
10th January ..	156	165	174	164

The following revised list of masters and summons clerks on duty for vacation business has been issued in correction of the list reproduced at p. 1034, ante:—

	Master	Summons Clerk
1961		
Friday, 22nd December	MASTER HEWARD (Room 163)	MR. LOVEDAY (Room 165)
Thursday, 28th December		
Friday, 29th December		
1962		
Monday, 1st January	MASTER DINWIDDY (Room 154)	MR. COLE (Room 156)
Tuesday, 2nd January		
Wednesday, 3rd January		
Thursday, 4th January	MASTER FROST (Room 162)	MR. THORNELEY (Room 164)
Friday, 5th January		
Monday, 8th January		
Tuesday, 9th January		
Wednesday, 10th January		

Obituary

Mr. ROBERT AGAR CHADWICK, M.A., LL.M., solicitor, of Leeds, a past president of the Leeds Incorporated Law Society and clerk to the West Riding justices from 1937 to 1950, died on 18th November, aged 84. He was admitted in 1904.

Mr. HAROLD WILLIAM GLENISTER, O.B.E., solicitor, of Eastbourne, and a former clerk to the Eastbourne magistrates, died on 2nd December, aged 77. He was admitted in 1908.

Mr. ARTHUR SLEE, assistant clerk to Pudsey court for twenty-three years, died on 28th November, aged 52.

Wills and Bequests

Mr. GEORGE VERNON BAXTER, solicitor, of Congleton, left £15,337 net. He left personal bequests, one-third of the residue to the Royal Society for the Protection of Birds, and one-sixth of the residue equally between the Yorkshire Naturalists Trust, the Norfolk Naturalists Trust, and the International Committee for Bird Protection.

Mr. HUMPHREY DE LA LYNDE, solicitor, of Great Yarmouth and Norwich, left £14,057 net.

Mr. EDWARD ATHOL WILLIAM TAYLOR, solicitor, of London, W.1, left £114,599 net.

Societies

The NORTH MIDDLESEX LAW SOCIETY held a special general meeting recently at the Town Hall, Hendon, London, N.W.4, when the adoption of rules concerning the scales of charges relating to conveyancing and other matters was the subject of consideration. It was resolved to adopt a set of rules providing for 100 per cent. charge for conveyancing, etc., subject to certain exceptions and arrangements set out in the rules. Any inquiries thereon by any solicitor should be made to Mr. Frank Wilders, Hon. Secretary, Bank Chambers, High Street, Hornsey, N.8.

The society held their annual dinner and dance at the Brent Bridge Hotel, Hendon, London, N.W.4, on Friday, 20th October last. Among the guests were Lord Justice Sellers, M.C., J.P., Lady Sellers, Sir Edwin Herbert, K.B.E., LL.D., a past president of The Law Society, and Lady Herbert. Representatives of the Hertfordshire Law Society, the West Essex Law Society and the Central and South Middlesex Law Society were present.

The SOMERSET LAW SOCIETY held their annual general meeting on 3rd November, when Mr. W. H. Powell was elected president, Mr. C. J. Arrow vice-president and Mr. P. F. Moule hon. secretary and treasurer. Following the meeting, a dinner was held at the Castle Hotel, Taunton, at which the president took the chair.

The YOUNG MEMBERS' GROUP of The Law Society will hold a meeting of the Study Group on 18th December, under the title "The Loss of Freedom to Contract." On 19th January, 1962, the Young Members' Group will hold their annual dance at The Law Society's Hall, Chancery Lane, London, W.C.2, where tickets may be obtained from the Cashier's Department, at 30s. for a double ticket.

"THE SOLICITORS' JOURNAL"

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Classified Advertisements must be received by first post Wednesday. Contributions are cordially invited and should be accompanied by the name and address of the author (not necessarily for publication).

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Epsom and Leatherhead.—**A. R. & J. GASCOIGNE-PEES**, F.A.L.P.A., Auctioneers, Estate Agents and Surveyors, 21 High Street, Epsom. Tel. 4045/6. 4 Bridge Street, Leatherhead. Tel. 4133/4. And at Reigate and Dorking.

Esher.—**EWBANK & CO.**, in association with Mann & Co. Est. 1891. Tel. 3337/8. Offices throughout West Surrey.

Esher.—**W. J. BELL & SON**, Chartered Surveyors, Valuers, Auctioneers and Estate Agents, 51 High Street, Esher. Tel. 3551/2.

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Ewell.—**WILTSHIRES**, Estate Agents, Surveyors, Auctioneers and Valuers, 55 High Street. Tel. Ewell 1665/6.

Farnham.—**H. B. BAVERSTOCK & SON**, Chartered Auctioneers and Estate Agents, 4 Castle Street. Tel. 5742 (2 lines).

Farnham.—**CUBITT & WEST**, Tel. Farnham 3261. Valuers, Surveyors, Estate Agents.

Farnham.—**EGGAR & CO.**, incorporating Curtis & Watson, Surveyors, Auctioneers, Land & Estate Agents, 74 Castle Street. Tel. 6221/3. And at Alton and Beelingskote, Hants.

SURREY (continued)

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SURREY (continued)

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Bexhill-on-Sea.—**JOHN GRAY & SONS** (Est. 1864), Estate Agents, Auctioneers and Valuers, 1 Devonshire Square, Tel. 14.

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Brighton.—**MELLOR & MELLOR**, Chartered Auctioneers and Estate Agents, 110 St. James's Street. Tel. 682910.

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Crawborough.—**DONALD BEALE & CO.**, Auctioneers, Surveyors and Valuers. The Broadway, Tel. Crawborough 3333.

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Eastbourne.—**A. C. DRAYCOTT**, Chartered Auctioneers and Estate Agents, 12 Gildredge Road, Tel. Eastbourne, 1285.

Eastbourne.—**HEFFORD & HOLMES, P.A.I.**, Chartered Auctioneers and Estate Agents, 51 Gildredge Road, Tel. Eastbourne 7840.

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(Continued on p. xxii)

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WARWICKSHIRE (continued)

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Kendal.—MICHAEL C. L. HODGSON, Auctioneers and Valuers, 10a Highgate. Tel. 1375.
Windermere.—PROCTER & BIRKBECK (Est. 1841), Auctioneers, Lake Road. Tel. 698.

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YORKSHIRE (continued)

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Hull.—EXLEY & SON, F.A.I.P.A. (Incorporating Officer and Field), Valuers, Estate Agents, 70 George Street. Tel. 3399/2.
Leeds.—SPENCER, SON & GILPIN, Chartered Surveyors, 132 Albion Street, Leeds, 1. Tel. 30171.
Scarborough.—EDWARD HARLAND & SONS, 4 Aberdeen Walk, Scarborough. Tel. 834.
Sheffield.—HENRY SPENCER & SONS, Auctioneers, 4 Paradise Street, Sheffield. Tel. 25206. And at 20 The Square, Retford, Notts. Tel. 531/2. And 91 Bridge Street, Worksop. Tel. 2654.

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Cardiff.—JNO. OLIVER WATKINS & FRANCIS, Chartered Auctioneers, Chartered Surveyors, 11 Dumfries Place. Tel. 33489/90.
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Swansea.—ASTLEY SAMUEL, LEEDER & SON (Est. 1863), Chartered Surveyors, Estate Agents and Auctioneers, 49 Mansel Street, Swansea. Tel. 55891 (4 lines).

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CHANGE OF NAME

I, JOHN ZIMMERMAN, of 21 Fountain I, House, Park Street, London, W.1, hereby give notice that I intend after the Thirtieth day of February One thousand nine hundred and sixty-two to apply to the Master of the Rolls that my name be changed upon the Roll of Solicitors from John Zimmerman to John Sumner.

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Will Lawyers kindly advise their Clients to help this Society? Making cheques payable to

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Classified Advertisements



PUBLIC NOTICES

AMENDED ADVERTISEMENT

BOROUGH OF PUDSEY DEPUTY TOWN CLERK

Applications are invited from duly admitted Solicitors for the appointment of Deputy Town Clerk, at a salary to be fixed within the Letter Grade C, £1,560 per annum to £1,825 per annum, according to experience and qualifications. Permanent post and superannuation.

Previous experience with a Local Authority would be of advantage, and a good knowledge of conveyancing is important. Work will include some advocacy and opportunity of taking Committees. Excellent prospects for the right applicant.

Housing assistance, if necessary.

Applications should be forwarded to the undersigned not later than Thursday, the 21st December, 1961, together with the names of two referees.

W. RICHARD CRUSE,
Town Clerk.

Town Hall,
Pudsey,
Yorkshire.

CITY OF BIRMINGHAM

Applications are invited for the appointment of a SENIOR ASSISTANT SOLICITOR in the Town Clerk's Office, salary scale (F), £2,015-£2,345 per annum.

A candidate should be a solicitor with conveyancing and other experience enabling him to assume responsibility for extensive and important work on land acquisition, development and disposal. The post is pensionable and subject to medical examination.

Applications, accompanied by copies of two testimonials, should be delivered to me by 21st December, 1961.

T. H. PARKINSON,
Town Clerk.

Council House,
Birmingham, 1.
November, 1961.

BREDBURY AND ROMILEY URBAN DISTRICT COUNCIL

ASSISTANT SOLICITOR

Applications are invited for this appointment at a salary within A.P.T. Grade IV (£1,140-£1,310) and generally in accordance with the Scheme of Conditions of Service for Local Authorities' professional employees. No previous local government experience necessary. November finalists will be considered. Five-day week. New offices ready shortly. Removal expenses and assistance with housing accommodation.

Applications, with names of two referees, by 8th January to the undersigned, who will supply further information on request.

D. W. TATTERSALL,
Clerk of the Council.

Council Offices,
Bredbury,
Cheshire.

CITY OF LIVERPOOL

Applications are invited for the appointment of ASSISTANT (Conveyancing) in the Town Clerk's Department. Salary £645 to £960 per annum (A.P.T. I/II). The person appointed will be working under supervision but should have a knowledge of conveyancing.

Application forms (returnable by 5th January, 1962) and further particulars from the undersigned.

THOMAS ALKER,
Town Clerk. (J.7/21.)

Municipal Buildings,
Liverpool, 2.

EAST BARNET URBAN DISTRICT COUNCIL APPOINTMENT OF DEPUTY CLERK OF THE COUNCIL

Applications are invited for the above appointment from solicitors with local government experience. Salary scale C (£1,560 × £70 (3) × £55 — £1,825 per annum). The conditions of service recommended by the Joint Negotiating Committee for Chief Officers will apply to the appointment.

Particulars of the appointment may be obtained from the undersigned, to whom applications should be sent, to be received not later than first post on 5th January, 1962.

ROBERT A. WINCH,
Clerk of the Council.

Town Hall,
Station Road,
New Barnet, Herts.

NOTTINGHAMSHIRE COUNTY COUNCIL

CONVEYANCING ASSISTANT

Applications are invited for this appointment on my staff. Applicants should have a good practical knowledge of conveyancing but local government experience is not essential. Salary A.P.T. II (£815 — £960) or A.P.T. III (£960 — £1,140) according to duties based on qualifications and experience. National Conditions of Service. Superannuation Scheme. Five-day week.

Applications stating age, qualifications, experience and other relevant information with the names of two referees must reach me by 1st January, 1962.

A. R. DAVIS,
Clerk of the County Council.

County Hall,
West Bridgford,
Nottingham.

HAMPSHIRE COUNTY COUNCIL

Applications are invited for the appointment on the staff of the Clerk of the County Council of an ASSISTANT SOLICITOR, with previous experience in local government, at a salary not exceeding £2,345, to be fixed according to qualifications and ability.

The post offers an opportunity of gaining wide general experience, both administrative and legal, in a busy office, and should prove attractive to young men of ability, bent on attaining the highest posts in local government. Separation allowance and assistance with removal expenses will be paid in approved cases.

Applications, giving full particulars of age, education, qualifications and experience and the names of two referees, should reach the Clerk of the County Council, The Castle, Winchester, by 1st January.

METROPOLITAN BOROUGH OF STEPNEY

APPOINTMENT OF ASSISTANT SOLICITOR

Applications are invited from Solicitors who are anxious to make Local Government their career. Good conveyancing and general experience necessary but previous local government experience not essential. Post offers scope and is superannuable.

Commencing salary according to experience will be within scale £1,355 to £1,525 per annum. Five-day week.

Applications giving details of age, qualifications, education and experience, together with the names of three referees, should be made to the undersigned.

WILFRED REEVE,
Town Clerk.

Municipal Offices,
227/233 Commercial Road,
Stepney, E.1.

THE URBAN DISTRICT COUNCIL OF ESTON

ASSISTANT SOLICITOR

Applications are invited for the appointment of Assistant Solicitor within the salary grade A.P.T. IV (£1,140 to £1,310). The duties will include the conduct of cases in the Magistrates' and County Courts, conveyancing and general legal and administrative work with some opportunity for obtaining experience of the work of Committees. Previous local government experience will be an advantage. Particulars of the terms and conditions of appointment may be obtained from the undersigned to whom applications should be submitted not later than the 5th January, 1962. Housing accommodation will be made available for the successful candidate, if required.

T. MYRDDIN BAKER,
Clerk and Solicitor of the Council.

Town Hall,
Fabian Road,
South Bank,
Middlesbrough.
7th December, 1961.

BOROUGH OF BRENTFORD AND CHISWICK

CONVEYANCING ASSISTANT

Applications invited from unadmitted conveyancing Clerks for this post on salary range £1,005 to £1,355 per annum commencing according to age and experience.

Provision of housing accommodation will be considered.

Write full details to undersigned.

W. F. J. CHURCH,
Town Clerk.

Town Hall,
Chiswick, W.4.

COUNTY BOROUGH OF BURTON UPON TRENT

APPOINTMENT OF ASSISTANT SOLICITOR

Applications are invited for the above appointment on A.P.T. V (£1,310 to £1,480 per annum). Housing accommodation will be provided, if required.

The post is superannuable and subject to medical examination.

Applications, in envelopes endorsed "Assistant Solicitor," and giving details of age, education, qualifications and general experience, together with the names and addresses of two persons to whom reference may be made should reach the undersigned not later than the 3rd January, 1962.

H. T. MEADES,
Town Clerk.

Town Hall,
Burton upon Trent.

KENT COUNTY COUNCIL

APPOINTMENT OF SENIOR ASSISTANT SOLICITOR

The Kent County Council invites applications from suitably experienced solicitors for appointment as a Senior Assistant Solicitor in the office of the County Clerk. Salary on Scale FG (£2,015-£2,565). Experience in Parliamentary and Planning work in a large county or county borough will be an advantage.

Applications, in envelope marked "Confidential," giving full personal particulars, education, qualifications and experience, together with the names and addresses of two referees, should be sent to the undersigned by not later than Saturday, the 3rd February, 1962.

G. T. HECKELS,
Clerk of the Kent County Council.
12th December, 1961.

continued on p. xxiv

CLASSIFIED ADVERTISEMENTS—continued from p. xxiii**PUBLIC NOTICES—continued****BOROUGH OF SUTTON GOLDFIELD
APPOINTMENT OF SOLICITOR**

Applications are invited for the appointment of a second solicitor at a salary within Scale "A" (£1,300—£1,565) according to experience. Local Government experience desirable but not essential, and housing accommodation may be provided for the successful applicant. Five-day week. Applications stating age, experience and qualifications and the names of two referees must be received by me not later than 22nd December, 1961.

J. P. HOLDEN,
Town Clerk.

Council House,
Sutton Coldfield,
Warwickshire.

**CITY OF SALFORD
TOWN CLERK'S PERSONAL ASSISTANT
(SOLICITOR)**

Applications are invited for the above appointment. Salary Scale "B" (£1,455—£1,670). Particulars of the post, which offers very great opportunities, obtainable from the Town Clerk, Town Hall, Salford, 5; closing date for applications 1st January, 1962.

APPOINTMENTS VACANT

CONVEYANCING Manager.—Berkshire Solicitors require unadmitted man with sufficient conveyancing experience to work with only general supervision immediately and eventually to fill the position of Conveyancing Managing Clerk. Good opportunity for hard worker.—Box 8234, Solicitors' Journal, Oyez House, Brems Buildings, Fetter Lane, E.C.4.

CITY Solicitors require admitted or unadmitted Conveyancing Clerk. Write stating full particulars.—Box C 331, c/o Walter Judd, Ltd., 47 Gresham Street, E.C.2.

HARROW Solicitors urgently require Managing Clerk or qualified Assistant. Mainly Conveyancing but some litigation experience essential. Please write stating full details of age, experience and salary required.—Box 8069, Solicitors' Journal, Oyez House, Brems Buildings, Fetter Lane, E.C.4.

BRADFORD (Yorkshire) Solicitors require experienced probate managing clerk able and willing to work with minimum supervision; knowledge of tax work an advantage; salary up to £1,050; pension scheme.—Box 8252, Solicitors' Journal, Oyez House, Brems Buildings, Fetter Lane, E.C.4.

FIRM of City solicitors require probate managing clerk with knowledge of income tax and trust accounts; salary by arrangement.—Write Box 8259, Solicitors' Journal, Oyez House, Brems Buildings, Fetter Lane, E.C.4.

SOUTHEAST-ON-SEA solicitors require assistant solicitor for expanding practice, mainly conveyancing and probate, with opportunities for litigation and advocacy; partnership prospects; commencing salary not less than £900 or according to length of experience.—Box 8255, Solicitors' Journal, Oyez House, Brems Buildings, Fetter Lane, E.C.4.

PROBATE Clerk required by West End firm. Opportunity for keen and knowledgeable man. Salary £750 minimum.—Box 8298, Solicitors' Journal, Oyez House, Brems Buildings, Fetter Lane, E.C.4.

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to work as an Assistant to the Company Solicitor and to undertake a wide variety of work in the Company and Commercial Law fields. Previous experience in these fields is desirable. Conveyancing experience will be useful and the ability to speak French would be a considerable advantage.

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The Company will pay removal expenses to the Stoke area and will materially assist with housing should it be required.

Letters should be addressed to

H. A. Dille, Reference TSJ,
Manager, Staff Recruitment
Michelin Tyre Co. Ltd., Stoke-on-Trent
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No reference will be made to any employer past or present without a candidate's consent.

OLD-ESTABLISHED family practice in Lincoln's Inn requires solicitor with a view to early salaried partnership and eventually succession. Emphasis at first on litigation and probate. Commencing salary up to £1,500 per annum.—Box 8235, Solicitors' Journal, Oyez House, Brems Buildings, Fetter Lane, E.C.4.

SOLICITOR, outstanding man required by old-established and rapidly expanding town and country general practice with offices in Cathedral town, market town and important sea-port; man appointed will be first-class all-rounder with litigation experience, capable of working without supervision; partnership offered after trial period.—Apply Box 8260, Solicitors' Journal, Oyez House, Brems Buildings, Fetter Lane, E.C.4.

WORCESTERSHIRE Solicitors in pleasant rapidly expanding Industrial Town with large and varied Practice require young Assistant Solicitor willing to undertake all branches and preferably with some experience since admission. Apply with full particulars stating approximate salary anticipated.—Box 8275, Solicitors' Journal, Oyez House, Brems Buildings, Fetter Lane, E.C.4.

COMMON Law Clerk with knowledge of Divorce required by Holborn Solicitors.—Apply, stating salary required, to Box 456, Reynell & Son, 44 Chancery Lane, W.C.2.

LARGE and expanding firm of Solicitors in South Wales require an admitted or unadmitted litigation assistant with experience in County Court, factory accident and running down cases. Excellent prospects and Salary.—Box 8274, Solicitors' Journal, Oyez House, Brems Buildings, Fetter Lane, E.C.4.

CASHIER/Book-keeper (between 30 and 40) for old-established and leading CITY firm. Good salary, according to experience, and working conditions in pleasant offices. No Sats. 3 weeks' holiday, L.V.s.—Box 8277, Solicitors' Journal, Oyez House, Brems Buildings, Fetter Lane, E.C.4.

REQUIRED by West End Solicitors, Junior Litigation Clerk. No Saturdays. Write with details of experience and salary required to Box G 618, c/o Streets, 110 Old Broad Street, E.C.2.

continued on p. xxv

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The post is based on London (West End) but occasional visits within the British Isles and overseas will be necessary.

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Applicants should write stating age, education, qualifications, experience and present salary, to—

The Group Personnel Officer (Ref. A.35),
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Berkeley Square House,
Berkeley Square, London, W.1.

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CLASSIFIED ADVERTISEMENTS—continued from p. xxiv

APPOINTMENTS VACANT—continued

EAST SUSSEX COAST. Young Assistant Solicitor required by old-established firm with busy general practice, including advocacy. Good prospects of advancement. Salary by arrangement.—Box 8278, Solicitors' Journal, Oyez House, Brems Buildings, Fetter Lane, E.C.4.

PINCHLEY Solicitors require Senior Common Law Managing Clerk, admitted or unadmitted, for Litigation Department. Salary £1,200 p.a. upwards according to experience.—Box 8281, Solicitors' Journal, Oyez House, Brems Buildings, Fetter Lane, E.C.4.

CONVEYANCING Clerk (male or female) required. Birmingham. Able to work without supervision. Commencing salary £1,310 rising to £1,480. Five-day week. Generous leave.—Apply P.O. Box No. 17, Birmingham.

NORWICH.—Litigation Managing Clerk required.—Salary according to experience. Pension scheme. Three weeks' holiday.—DAYNES KEEFE & CO., Castle Meadow, Norwich. NOR. 03D.

WEST SUSSEX.—Assistant Solicitor required to take charge of Litigation Department. Possibility of partnership later. Salary according to experience but not less than £1,250.—Box 8228, Solicitors' Journal, Oyez House, Brems Buildings, Fetter Lane, E.C.4.

CHESHIRE.—Stockport firm requires solicitor as personal assistant to principal; preferably of degree standing, for conveyancing, probate, revenue, company and commercial practice; this post offers good prospects for a recently admitted applicant.—Box 8290, Solicitors' Journal, Oyez House, Brems Buildings, Fetter Lane, E.C.4.

RETAIL organisation with expanding legal department at Manchester Head Office require solicitor for full-time executive appointment to plan and supervise work of staff dealing with large volume of hire-purchase and debt collection work. Applicants should be capable organisers and well versed in debt recovery and court procedures. Good prospects and conditions of employment. Reply stating age, experience and present salary.—Box 8310, Solicitors' Journal, Oyez House, Brems Buildings, Fetter Lane, E.C.4.

**CONVEYANCING AND
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UP TO £1,500 p.a.**

Conveyancing and litigation clerks are required by solicitors in Central London. The positions are open to admitted or unadmitted men and salaries of up to £1,500 per annum will be paid according to experience. Write in strict confidence, or telephone. Strand Business Agencies, 322 High Holborn, London, W.C.1. (Chancery 3878/3907).

EAST MIDLANDS.—Old-established firm require unadmitted Managing Clerk able to work with minimum supervision. Mainly conveyancing. Some probate. Salary according to experience.—Box 8296, Solicitors' Journal, Oyez House, Brems Buildings, Fetter Lane, E.C.4.

CONVEYANCING Solicitor of first-class ability and experience required by leading City of London Solicitors. A high standard is required and remuneration will be commensurate.—Details and age to Box 459, Reynell's, 44 Chancery Lane, W.C.2.

REIGATE, Surrey.—Young assistant solicitor required for busy conveyancing and general practice; please write with full particulars.—Box 8297, Solicitors' Journal, Oyez House, Brems Buildings, Fetter Lane, E.C.4.

DEBT Collection Dept.—West End firm require young experienced, ambitious and keen male clerk; to work on own initiative with some supervision. Should be accustomed to handling large volume of varied accounts. Salary £10 minimum.—Box 8299, Solicitors' Journal, Oyez House, Brems Buildings, Fetter Lane, E.C.4.

PROPERTY Dept. of large Hotel Company require Young Man (22–28). Experience of Conveyancing (preferably in legal office) essential. Good prospects, Pens. and L.A. Schemes, free lunches, etc.—Apply, giving details of experience and salary required to Trust Houses Ltd., 53 Short's Gardens, W.C.2.

LEGAL Assistant (25–35), male, unadmitted, with some 10 years' general experience in solicitor's office(s), required at London Headquarters. Salary £900 with two increments of £75 and opportunities for early advancement. 5-day week, pension scheme.—Write stating experience to Club & Institute Union, 127 Clerkenwell Road, E.C.1.

LONDON, E.—Solicitors require admitted man, thoroughly experienced conveyancing, able to work without supervision; £1,800 per annum; good prospects.—Box 8300, Solicitors' Journal, Oyez House, Brems Buildings, Fetter Lane, E.C.4.

SOLICITOR required by old-established firm at Watford; busy conveyancing practice, including litigation and advocacy; salary £1,250 and upwards, according to experience; good prospects of advancement.—Box 8301, Solicitors' Journal, Oyez House, Brems Buildings, Fetter Lane, E.C.4.

CONVEYANCING Clerk of outstanding ability required by City Solicitors. Remuneration not less than £1,500.—Box 8302, Solicitors' Journal, Oyez House, Brems Buildings, Fetter Lane, E.C.4.

MEDIUM-SIZED City firm require Assistant Solicitor for Conveyancing department; must be able and willing to undertake considerable volume of work; age preferably under 30; commencing salary up to £1,250 p.a. congenial office; good prospects.—Box 8206, Solicitors' Journal, Oyez House, Brems Building, Fetter Lane, E.C.4.

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No candidate's identity will be disclosed without permission.

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All the legal work of the Authority, including litigation, conveyancing, prosecutions and the promotion of Private Bills in Parliament is conducted by the Solicitor.

Candidates should have wide experience either as a partner in a firm with a general commercial and litigation practice or at a senior level in the legal department of a large public authority or company.

The starting salary will be a matter for negotiation but will in any event be not less than £4,000. There is a contributory pension scheme. Age: preferably about 45.

Closing date for applications 30th December, 1961.

Please apply with full details of education and experience to

The General Manager, Port of London Authority
P.O. Box 242, London, E.C.3

Marking the envelope "Private & Confidential."

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CLASSIFIED ADVERTISEMENTS—continued from p. xxv

APPOINTMENTS VACANT—continued

SIDCUP (KENT).—Assistant Solicitor required in a general practice for mainly common law work, but some conveyancing and probate. Salary by arrangement. Object is to secure suitable type for partnership and eventual succession, the sole principal wishing to ease off work.—Box 8303, Solicitors' Journal, Oyez House, Brems Buildings, Fetter Lane, E.C.4.

MAN OR WOMAN WANTED for litigation, probate, conveyancing (in that order) in growing practice in expanding market town in beautiful country within easy reach of London. Willingness to undertake advocacy desirable but not absolutely essential. A youngish solicitor (not over 35) or newly admitted or March finalist preferred, but the post is open to an unadmitted man or woman. (Are you quite mad? You may not get a reply, let alone a choice.) Starting salary: up to £1,000 p.a. (up to). Partnership or articles: prospects if suitable. Housing: difficult. Habits: non-smoker preferred. Amenities: marriageable secretary (brunette), might suit bachelor. Starting date: January or after. Advertiser: rapidly middle-aging, has wife and family, thinks has sense of humour. Replies: will be sent to all applicants who are not solicitors over 35 or not wanting over £1,000 p.a.—Box 8304, Solicitors' Journal, Oyez House, Brems Buildings, Fetter Lane, E.C.4.

SOLICITOR

required in London by Commercial Company. Long established National Finance Company require a third solicitor aged about 27, in their legal department. Mainly for Hire-Purchase work, but also to assist with its conveyancing and general work.—Short particulars first to Box 8308, Solicitors' Journal, Oyez House, Brems Buildings, Fetter Lane, E.C.4.

GLOUCESTER.—Commencing salary of £25 per week offered to really efficient and reliable Managing Clerk or Solicitor capable of (1) starting work at 9 a.m.; (2) taking detailed statements from clients at early stage; (3) arranging for Legal Aid or costs cover at first interview; (4) conducting litigation, claims, divorce and general matters profitably and with minimum supervision; (5) finishing cases off without leaving "loose ends"; (6) working and supervising office conscientiously when Principal absent. Progressive position. Free articles considered.—Box 8309, Solicitors' Journal, Oyez House, Brems Buildings, Fetter Lane, E.C.4.

CITY Solicitors require Managing Clerk for Conveyancing department; preferably fully experienced and capable of undertaking work without supervision, but less experienced assistant would be considered; good salary appropriate to general capability of applicant.—Box 8207, Solicitors' Journal, Oyez House, Brems Buildings, Fetter Lane, E.C.4.

YOUNG advocate required by Pembrokeshire Solicitors for Police and County Court work (English area; magnificent coast). Newly admitted man considered. Commencing salary about £1,000 according to experience.—Box 8270, Solicitors' Journal, Oyez House, Brems Buildings, Fetter Lane, E.C.4.

CASHIER/Book-keeper, male or female, for South London Office. Knowledge conveyancing and/or probate an advantage.—Reply stating age, experience and salary required to Box 8311, Solicitors' Journal, Oyez House, Brems Buildings, Fetter Lane, E.C.4.

APPOINTMENTS WANTED

KEEN young solicitor wishes to undertake work in the evenings for other solicitors.—Apply Box 8305, Solicitors' Journal, Oyez House, Brems Buildings, Fetter Lane, E.C.4.

AMERICAN attorney; fluent in Scandinavian tongues; sales, administrative legal experience; shortly arriving in London and desires post.—For further particulars telephone Miss Cross, HYP-Park 2967, or write International Placement Association, Bond Street House, 14 Clifford Street, W.1.

SOLICITOR commencing practice on his own account, office near Epsom and within easy reach of London, has opportunity to assist overworked practitioner in probate, trust and conveyancing. Working arrangement, if necessary.—Box 8306, Solicitors' Journal, Oyez House, Brems Buildings, Fetter Lane, E.C.4.

EAST SUSSEX Solicitor with small newly-established practice has time available to assist overworked local practitioners with conveyancing, probate, etc.—Box 8314, Solicitors' Journal, Oyez House, Brems Buildings, Fetter Lane, E.C.4.

SOLICITOR, very many years' experience, seeks post early January. Litigation, advocacy, conveyancing, probate and general work. Would welcome considerable advocacy scope. London, preferably South or Southern Suburbs.—Box 8312, Solicitors' Journal, Oyez House, Brems Buildings, Fetter Lane, E.C.4.

SOLICITOR (51), admitted 1934, seeks employment as Conveyancing Assistant in Sussex. Salary £1,300 per annum approximately. Available January, 1962.—Box 8313, Solicitors' Journal, Oyez House, Brems Buildings, Fetter Lane, E.C.4.

SOLICITOR (49), admitted January, 1936, seeks position with genuine prospects of partnership, sound lawyer, considerable experience conveyancing and litigation (not London).—Box 8285, Solicitors' Journal, Oyez House, Brems Buildings, Fetter Lane, E.C.4.

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